

SP MANWEB



Reinforcement to the North Shropshire Electricity Distribution Network

Deadline 3 Submission

Application Reference: EN020021

**Responses to Written Representations Submitted at
Deadline 2**

SP MANWEB

**Reinforcement to the North Shropshire Electricity
Distribution Network**

**Response to the Written Representation Submitted
at Deadline 2**

**May 2019
PINS Reference EN020021**

QA Box

Author		SP Manweb	
Planning Inspectorate Application Reference		EN020021	
Date			
Version	Status	Description/Changes	
14/05/2019	1	Final	Submitted to PINS (Deadline 3)

SP Manweb plc, Registered Office: 3 Prenton Way Prenton CH43 3ET. Registered in England No. 02366937

CONTENTS

1. Introduction.....1

2. Highways England.....1

3. Mr Edward Jones.....6

1. INTRODUCTION

- 1.1. This document provides SP Manweb's response to the Written Representations, submitted at Deadline 2, by Highways England (HE) and Mr Edward Jones.

2. HIGHWAYS ENGLAND

Subject Matter
Statement of Common Ground
<p>We previously noted the Examining Authority's request for a Statement of Common Ground (SoCG) between us and the applicant and have been engaged with them to reach agreement on this document. Unfortunately due to the applicant's late submission to us, immediate ahead of the Easter Bank Holiday, of further text and comments on the draft SoCG, we have been unable to reach agreement on the document at this time. We are committed to continue to engage with the applicant to reach an agreed document.</p>

SP Manweb Response

- 2.1. A summary of the engagement between SP Manweb and HE, regarding progressing a SoCG, is set out in SP Manweb's Deadline 2 submission 'Position Statement on Statements of Common Ground V2' (REP2-004). Following the further comments from HE received on the 5th April a third draft of the SoCG (V3) was issued to HE on 18th April, and this is the version referred to in HE's response above, as well as in SP Manweb's updated Position Statement on SoCGs (V2). Following the issue of the HE SoCG V3 to HE both parties have continued their engagement on matters to be agreed. This has covered the matters raised in HE's responses below, and which have been discussed in a meeting between SP Manweb and HE on 1st May, and in an email to HE on 2nd May and subsequently amended following further discussions in an email of 9th May. The email of the 9th May includes a note of the matters discussed at the meeting with HE, and this is also appended to the latest draft HE SoCG (V4) submitted by SP Manweb at Deadline 3.

Subject Matter**A5 Trunk Road Access – Article 37**

Article 37 as drafted applies a blanket deemed consent provision across the entire DCO (excluding the requirements) including however the Articles and also the Protective Provisions. As we have previously advised we cannot agree to the principle of deemed consent due to its in compatibility with our role as a strategic highway company operating under the terms of the Infrastructure Act 2015 including the licence issued to us by the Secretary of State for Transport. We would however be content with being subject to a provision 'not to unreasonably withhold or delay approval' but no more.

With regards to further agreement on the requirements of the temporary access, we anticipate this to be affected by the revised Article 26. The current wording of Article 26 would not be acceptable. This relates to the power to construct temporary accesses without recourse to a requirement to seek approval from the highway authority. This is a potential safety concern and the Article should be amended to require design consent from the relevant Highways Authority (Highways England for the SRN). Further the Article should ensure that all temporary accesses do not create any new rights of access beyond those already in place or created by the DCO.

SP Manweb Response

- 2.2. SP Manweb explained at the meeting with HE on 1st May that the NSR project is a major reinforcement project for North Shropshire, has the firm support of the local authority, and is following an established consenting process. The inclusion of Article 37 (deemed consent) is not a new proposition.
- 2.3. In the interests of delivering the Proposed Development, SP Manweb is unable to accept the omission of the powers for Deemed Consent in the draft DCO. In acknowledging HE's comments, SP Manweb has already agreed, in its response to the Relevant Representation submitted by HE (REP1-002), to extend the 28 days deemed consent period to 56 days for HE. SP Manweb considers this provides HE with sufficient time to consider design proposals.
- 2.4. Furthermore, since submitting its response to the Relevant Representation, as noted above, SP Manweb has proposed a new Requirement (11) which requires consultation on the details of the traffic management and signage and, is also now proposing, as set out at the meeting on the 1st May, that these details are agreed with HE. It is in SP Manweb's interest that such details are shared and agreed with HE in advance of a formal submission to the local

planning authority to discharge the requirement. With this Requirement in place, SP Manweb considers that HE has further control over agreeing details before they are submitted for approval under Article 37.

- 2.5. For the above reasons, SP Manweb considers the inclusion of Article 37 in the draft DCO is a necessary power and that it is reasonable for HE to be subject to the powers sought in the article. Following further discussions with HE since the meeting on 1st May, SP Manweb is aware of HE’s current blanket objection stance to deemed consents in all DCOs and given this position SP Manweb will not be able to agree a position with HE on this matter. In response to HE’s stance, SP Manweb does not propose to amend Article 37 as suggested by HE as the principle of deemed consent has already been accepted by other relevant authorities. SP Manweb instead will amend Article 37 to exclude Highways England from the effect of the article. This is on the basis that there is a specific provision relating to Highways England’s prior approval in Part 6 of Schedule 6 in the draft DCO provided they do not unreasonably withhold or delay consent and engage in a timely manner.
- 2.6. A response to the second part is addressed in SPM’s response in paras 2.14 – 2.16 below.

<p>Subject Matter</p> <p>A5 Trunk Road Access – Article 9</p>
<p>Article 9 gives the applicant the power to permanently alter the layout of any street or junction within the Order limits. Whilst this Article is subject to the consent of the street authority, because it relates to a permanent changes to our network there are significant safety concerns that could arise should this be undertaken without the application of the necessary checks and balances inherent to the necessary approval process we apply. This could result in a substandard design on our network which we would have responsibility and liability for – and highlights the risks of the principal of deemed consent.</p>

SP Manweb Response

- 2.7. HE’s concerns principally relate to access from the A5(T) to Plot 11 although they also note the order limits include a short section of the main carriageway. Plot 11 forms part of Works No.2. Works No.2 that affects the A5(T) comprise the “HE Works” for the purposes of the HE Protective Provisions. The general power under Article 9 does not supersede the HE Protective Provisions. SP Manweb will clarify wording in the HE Protective Provisions in order to ensure

the short A5(T) section and the access is explicitly covered. To this end SP Manweb propose to further review with HE the wording of paragraph 57(1) of the protective provisions in Part 6 Schedule 6 and the list of detailed design matters for approval by HE. On this basis, as with Article 37, and given SP Manweb has no intentions to alter in any way the section of the A5(T) and access affected by the order limits, SP Manweb will exclude HE in relation to the A5(T) from the effect of Article 9.

- 2.8. It should be noted that the access onto the A5(T) will not be subject to any works in any event and, further, the access is for temporary use only and (only temporary possession is being taken).

<p>Subject Matter</p> <p>A5 Trunk Road Access – Article 13</p>
<p>Article 13 – this article gives the applicant the power to create new accesses and is subject to the approval of the planning authority only. Procedurally we note that the planning authority would only have to consult with the highway authority (and not agree with the highway authority) and as this is an article subject to deemed consent a new access on the SRN could be created without due involvement or agreement of the relevant authority at all. This could arise if the planning authority failed to consult or otherwise missed the deemed approval deadline. This requirement therefore needs to be subject to the highway authority’s approval rather than the planning authority.</p>

SP Manweb Response

- 2.9. SP Manweb’s response is the same as to Article 9 above.

<p>Subject Matter</p> <p>A5 Trunk Road Access – Articles 26 and 27</p>
<p>Articles 26 and 27 – these relates to temporary land use and gives the power to construct temporary accesses. There is no requirement to seek approval from the highway authority and gives rise to another potential safety concern. We require that our consent be given to such proposals where they affect the SRN. The Article also must reflect out concerns noted above in regard of temporary accesses being removed after use. The</p>

<p>Subject Matter</p> <p>A5 Trunk Road Access – Articles 26 and 27</p>
<p>provisions of Article 27 (maintenance accesses) should also require approval by ourselves and agreement to removal after use.</p>

SP Manweb Response

- 2.10. SP Manweb’s response is that it does not propose to alter in the main Article 26 and 27 to exclude the A5(T) as SP Manweb is seeking only temporary possession over HE land, as controlled by Schedule 5. These powers are necessary in order to ensure delivery of the scheme. To provide further assurance to HE, SP Manweb will insert in Article 26(4) after ‘temporary works’ reference to any temporary access works on the A5(T) being removed as part of the restoration and in Article 27(5) after ‘... restore the land’ ‘including any temporary access works on the A5(T). Further, as to any works on HE land, these are subject to approval by HE under the protective provisions.

<p>Subject Matter</p> <p>Protective Provisions</p>
<p>The draft Protective Provisions provide us ‘step in rights’ to carry out or complete works should we need to, however no bond provision is provided to guarantee recovery of any monies expended by ourselves. Such a requirement is necessary and should be included as should a requirement for project and contractor’s insurances to be secured prior to works commencing.</p>
<p>We note further that within the Protective Provisions there is inconsistency with a 28 day deemed consent period applying rather than the 42 day period referenced elsewhere within the application. While our position is to object to the inclusion of such provisions we note that the applicant has suggested a 56 day period is a possibility. While we recognise a lengthening of this period is an improvement likely to increase the opportunity to resolve matters arising this does not overcome our objections to the principle of deemed approval / consent.</p>
<p>We are concerned that Paragraph 60(3) of the Protective Provisions is unreasonable as it highly likely to result in long disputes and delays in payment over what is or is not a ‘reasonably incurred’ expenditure and undermines the protection afforded by the indemnity.</p>

<p>Subject Matter</p> <p>Protective Provisions</p>
<p>By way of comment we note that the majority of our comments relate to matters of highway safety. Highways England’s key priority is safe operation of our network and we have a statutory obligation to protect the safety of the SRN written into our licence issued by the DfT.</p>
<p>We are encouraging the applicant to make significant progress on the design of the A5 cable crossing, signage installations and a supporting traffic management plan during the course of the Examination to enable us to review our current position. As such, we are committed to further engagement with the applicant and commit to providing updates to ExA on progress made.</p>

SP Manweb Response

- 2.11. SP Manweb consider that once the proposed above changes to the draft DCO other than the protective provisions have been agreed with HE, via the SoCG, then they can be included in the relevant Protective Provisions in the next draft of the DCO.
- 2.12. SP Manweb welcomes the engagement with HE and will continue to engage constructively to resolve matters outstanding.

3. MR EDWARD JONES

<p>Subject Matter</p> <p>Length of Overhead Line</p>
<p>The proposed power line crosses my property and makes up about 5% of the total length of the project.</p>

SP Manweb Response

- 3.1. Approximately 5% of route length will be over Mr Jones’ land. Where possible SP Manweb has located poles have at field boundaries

Subject Matter**Restriction of Irrigation Facilities**

.... the powerline is not something I want planted on my property and I have had to spend much time and effort to prevent it causing me a massive devaluation of my property by restriction of irrigation facilities used.

SP Manweb Response

- 3.2. The proposed line route has been designed following a number of landowner requests and where possible these requests have been factored in to the present design. The routing considerations are set out in SP Manweb's three the line route reports prepared in 2016 and 2017 and submitted as part of the DCO application¹.
- 3.3. SP Manweb's Line Route Report June 2016 (**DCO Document 7.9** (APP-092)) explains that having considered a number of environmental considerations, a preferred line route was identified (see Figure 6.1 of the report). The preferred line route was presented at the Stage One Consultation in June 2016.
- 3.4. Following the Stage One Consultation, SP Manweb received comments from Mr Jones regarding the potential impacts of the preferred line route on farming activities, namely on fields where a centre point irrigation system had been installed.
- 3.5. In response to this, and feedback from other landowners, SP Manweb identified and assessed two additional options (Option 2A and Option 2B). These options are shown in Figure 3.2 in the Updated Line Route Report (November 2016) (**DCO Document 7.10** (APP-093)). The figure shows the extent of the centre point irrigation system. The outcome of the routing assessment was that Option 2A was taken forward to the next stage of non-statutory consultation in November 2016.
- 3.6. In response to this consultation, SP Manweb received feedback from Mr Jones referring to concerns on the revised line route. Following consideration of this

¹ SP Manweb Line Route Report (June 2016) (**DCO Document 7.9** (APP-092)); SP Manweb Updated Line Route Report (November 2016) (**DCO Document 7.10** (APP-093)); and SP Manweb Updated Line Route Report 2 (**DCO Document 7.11** (APP-044))

feedback, SP Manweb proposed to revise the line route to follow Option 2B, and published this in Project Update 3 in May 2017.

- 3.7. As Chapter 2 of the Updated Line Route Report 2 (November 2017) (**DCO Document 7.11** (APP094)) refers, SP Manweb received no response from Mr Jones following the Project Update 3. Chapter 3 (para 3.3.19) notes that Option 2B was based on a line route suggested by the landowner and that no comments had been received.
- 3.8. As no adverse significant environmental impacts were identified, and Option 2B linked with an option in the previous section, SP Manweb adopted Option 2B as the proposed route at this location. SP Manweb did not receive any further feedback from Mr Jones as part of the statutory consultation, although discussions have continued with them regarding the placing of poles at field boundaries in their land ownership.
- 3.9. In summary, SP Manweb considers it has worked with Mr Jones to avoid impact on the irrigation system by amending the line route, and it understood the proposed route to be acceptable to this landowner.

Subject Matter
Restriction of Irrigation Facilities
It is extremely difficult for small businesses to withstand the financial abilities of the large utility companies to get a fair outcome.
I have provided Scottish Power with the facts and figures of what an obstacle such as an electricity pylon planted within an arable field could cost a farming business. They do not want to know. I can show costs of up to £600 per pole per annum to a farm business. They are offering £35 per pole. (I can provide these figures to yourselves if you require). So effectively if this scheme goes ahead farm businesses effected will be subsidising the utility company to some order

SP Manweb Response

- 3.10. The siting of wood pole structures within rural farming operations is not unusual.
- 3.11. As set out in Section 6 of Chapter 11 of the ES (**DCO Document 6.11** (APP-074)) 'Effects during Operation'.

Longer term potential operational effects on agriculture as a result of the Proposed Development are associated with the permanent loss of small areas of operational agricultural land associated with the footprints of the wood poles and stays; and the presence of wood poles and the overhead line within the fields causing inconvenience to agricultural operations, for example during grass cutting, spraying and irrigation operations. (Para 11.6.1)

3.12. It has been assumed all the structures are situated in arable fields (a 'worst case'). Using a precautionary approach of not cropping (using agricultural machinery) within 2m of a pole or stay. The 'uncropped' area created by the Proposed Development is estimated to be a total of 1.5 hectares².

3.13. Mr Jones has the following poles on his land:

Pole 66 - Inter 2.5m Arm;
Pole 67 - Inter 2.5m Arm;
Pole 68 – Section Single;
Pole 69 - Inter 2.5m Arm;
Pole 79 - Inter 2.5m Arm;
Pole 80 - Inter 2.5m Arm;
Pole 81 – Angle H-Pole;
Pole 82 - Inter 2.5m Arm;
Pole 83 - Inter 2.5m Arm; and
Pole 84 – Angle H-Pole.

3.14. This would result in a 'worst case' of a loss of 856m², using the areas set out in Table 11.4 of Chapter 11 'Land Use and Agriculture' of the ES (DCO Document 6.11 (APP-074)). SP Manweb has however sited the poles and stays, where possible, closer to field boundaries and therefore the land take will be less.

3.15. Landowners are being offered the SP Manweb annual compensation and rental payments for high voltage wood poles and stays based on the higher land use value for arable land. A significant number of wood pole supports on

² ES Chapter 11 'land use and Agriculture (DCO Document 6.11 (APP-074) Table 11.4

Mr Jones' land will be situated at field boundaries and the supports will still receive the offer of the higher arable payment.

- 3.16. The annual payments are multiplied by 20 years to provide a capital sum offer for the grant of an easement.