

SP MANWEB



Reinforcement to the North Shropshire Electricity Distribution Network

Summary of SP Manweb's Oral Submissions at ISH2 and the CAH

Application Reference: EN020021

Deadline 6 Submission

SP MANWEB

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

**Summary of Oral Submissions at the Issue
Specific Hearing and the Compulsory Acquisition
Hearing**

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PINS Reference EN020021**

QA Box

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

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1. INTRODUCTION

- 1.1. This is SP Manweb's summary of the oral submissions made at ISH2 on the draft Development Consent Order (v4) [REP5-002] and at the CAH.

2. SUMMARY OF ORAL SUBMISSIONS AT ISH 2

- 2.1. The main submissions at ISH2 are made under Agenda Item 4 and are in the form of a Table as set out below.

Agenda item 2

- 2.2. SP Manweb confirmed that draft Development Consent Order (v4) [REP5-002] was the current version of the draft Development Consent Order and that was the correct document to form the basis of discussions at the ISH.

- 2.3. SP Manweb further confirmed that:

- (i) It would be making the changes to Part 6 of Schedule 6 (Provisions for the protection of Highways England ("HE")) set out in SP Manweb's letter dated 5 July 2019 to PINS [AS-14];
- (ii) The latest form of provisions for the protection of the Canal's and Rivers Trust ("CRT") is contained at Annex B to the Statement of Common Ground between SP Manweb and CRT [AS-13]; and
- (iii) The latest form of provisions for the protection of National Grid ("NG") is found in the NG additional submission dated 10 July 2019 [AS-016]. This overlays NG's (standard) protective provisions onto those included in the original draft Development Consent Order submitted with the application. SP Manweb had provided NG with comments on its proposed protective provisions on 8 July 2019. AS-16 does not reflect those comments.

- 2.4. SP Manweb also confirmed that the correct draft Construction Environmental Management Plan v4A [AS-11 (tracked) and AS-12 (Clean)] ("the CEMP") was the latest document and should form the basis of discussions at the ISH. ([AS-

11] shows the changes between 3 and 4A. V4A does not have the appendices). The appendices will be attached to the final version of the CEMP.

Agenda Item 3

2.5. SP Manweb updated the ExA on progress in relation to the protective provisions as follows:

- (i) CRT: As set out above, the protective provisions at Annex B to [AS-13] are largely agreed. There remain two points of contention between the parties:
 - a. Paragraph 2(13) (as numbered in Annex B to [AS-13]): CRT wish to remove deemed consent under Article 37(2). SP Manweb do not agreed to this on the basis that CRT's interests as protected by the remainder of the protective provisions, do not warrant holding up the delivery of a nationally significant infrastructure required to enable Shropshire Council to meet its economic ambitions for the area. SP Manweb does not plan to include paragraph 2(13) in the next draft of the DCO;
 - b. Paragraph 2(18): CRT wish to include wording that SP Manweb will use "all reasonable endeavours" (although CRT has subsequently indicated that it would accept "reasonable endeavours" to acquire rights over its land by agreement rather than by compulsory acquisition. SP Manweb take the view that the inclusion of such wording is not necessary where the Secretary of State would have confirmed the order and thus having found a compelling case in the public interest to grant compulsory purchase powers. The inclusion of the wording could lead to unnecessary legal argument as to whether "reasonable endeavours" were made. SP Manweb has offered the following wording in the alternative which it plans to include in the next draft of the DCO: "The undertaker will continue to engage with the Trust in relation to the acquisition of the necessary rights/interests from the Trust by private treaty."
 - c. CRT will have the opportunity to comment on the next draft DCO. It may be that the ExA has to arbitrate between the positions. If the ExA were to prefer CRT's wording, the answer would be to include that wording as opposed to recommend refusal.

- (ii) Highways England (“HE”): subject to the inclusion of the amendments identified in [AS-14], SP Manweb understands that HE are now content with the protective provisions.
- (iii) National Grid (“NG”): see paragraph 3(ii) above. SP Manweb confirmed that it would liaise with National Grid in order to progress the protective provisions and to ensure that the protective provisions properly relate to this specific development consent order. SP Manweb explained that some of its comments sent to NG on 8 July 2019 had addressed this point.
- (iv) Network Rail (“NR”): the provisions for the protection of NR are largely agreed. Similarly to CRT, there are two points which remain between the parties and may require the ExA to determine. The first is that NR object to SP Manweb gaining compulsory acquisition powers in relation to its land. SP Manweb submit that this is essential to ensure its ability to deliver the scheme and that the protective provisions deliver to NR the protection it requires and warrants as custodian of important infrastructure itself. The context should always be recalled. SP Manweb is seeking to oversail the railway at a single point. Secondly, whilst SP Manweb has consent to the inclusion of an indemnity to NR’s benefit, NR wish this to extend to consequential loss. SP Manweb do not agree to this.
- (v) Severn Trent (“ST”): ST has not commented on Part 2 of Schedule 6. Consequently no changes to the draft development consent order have been requested. ST, however, wish SP Manweb to enter into Asset Protection Agreement (“APA”) before it withdraws its objection. SP Manweb has provided comments on the APA subject to which it would be content to enter the APA. SP Manweb undertook to consider the need and, if so, the means of linking the protective provisions to the APA.

Agenda Item 4

- 2.6. The table below captures the ExA’s detailed comments on the draft Development Consent Order (v4) and the steps that SP Manweb undertook to take at the ISH:

Subject Matter	ExA's Comment on dDCO	SP Manweb's Response
General	Consistency in capitalisation of Order	The draft DCO will be amended to ensure consistency in this regard
<i>Contents</i>		
Schedule 6 Part 3	NETWORK RAIL rather than RAILWAY INTERESTS?	Agreed - will be done in final draft
Part 4	Delete NETWORK	Agreed - will be done in final draft
<i>Articles</i>		
Article 2(1)	"authorised development" means the development... Refer to the NSIP as the development	To read: "means the development of a 132KV overhead line comprising the nationally significant infrastructure project (Work No.3) and..."
	"the environmental statement" means the documents of that description set out at Schedule 9 – the documents are not set out in the schedule but are simply referred to	Substitute the following definition: <i>"means the documents of that description listed in Schedule 9 and certified..."</i> Sch.9 to be amended to list individual the documents (6.1-6.16) comprising the Environmental Statement
	"the Order limits" means the limits shown on the land plans and works plans; why does this refer to both sets of plans rather than just the land plans as in the definition of "Order land"?	Delete "and works plans" from the definition of Order Limits
	"plans of important hedgerows affected" – refer also to Schedule 9	Add in "and Schedule 9" after "article 35") Make the same change to the definitions of the following terms: <ul style="list-style-type: none"> • The Access and Rights of Way Plans • The Book of Reference • Construction Report • Land plans • Works plans
	"relevant highway authority" – not "and/or" in a statutory instrument	Substitute <i>"means Shropshire Council or Highways England in relation to the A5"</i>

Subject Matter	ExA's Comment on dDCO	SP Manweb's Response
	"statutory undertaker" – is the inclusion of a public communications provider appropriate and how does this relate to articles 8(4)(a), 18(4), 29 and 30?	SP Manweb undertook to produce a note on the statutory undertakers and the relationship between articles 8, 18, 21, 29 and 30 as well as the role of communication providers.
Article 3(2)	Is the reference to paragraph (1) correct? Should it be article 4?	Agreed - will be done in final draft
Article 5(2)	Delete "an electric line above ground and any underground electric cable and all elements of" as in paragraph (1) previously.	Agreed - will be done in final draft
(3)	Delete "above ground electric line and the underground electric cable and any other elements of the" - as above.	Agreed - will be done in final draft
Article 9(5)	The A5(T) needs defining in article 2 (1).	Agreed - will be done in final draft. Definition to include "the A5 Trunk Road" and to specify to two local features/ junctions either side of where the scheme meets the A5
Article 10(1)	Insert "column (3) of" between "in" and "that"	Agreed - will be done in final draft
Article 11 (4)	Could this be worded as article 9 (3), i.e. "The powers conferred by paragraph (1) must not be exercised without the consent of the street authority which may attach reasonable conditions to any consent".	Agreed - will be done in final draft
Article 16(1)(d)	"Place on and"	Agreed – suggest change to "Place and leave on" (no need for 2x on)
(2)	Delete "or removed from"	Agreed - will be done in final draft
(5)	Should a time limit be inserted here? What is the trigger?	Agree - insert after "land" "when no longer required"
Article 18	What is the relationship with article 29 (2)?	To be covered in Note on Statutory Undertakers
Article 21(4)	What is the relationship to article 18?	To be covered in Note on Statutory Undertakers
(5) (a) (ii), (iii) and (iv)	What does "it" refer to – the land in (i)?	Yes. SP Manweb propose to replace "it" with "that land"

Subject Matter	ExA's Comment on dDCO	SP Manweb's Response
Article 22(9)	This refers to the exclusion of subsoil only, whilst article 23 (3) refers to subsoil and airspace and article 24 (5) refers to subsoil or airspace. Why is there a difference between these?	Need to insert "or airspace" after "subsoil" in Article 22(9)
Article 26(12)	The disapplication of the Neighbourhood Planning Act 2017 relating to article 27 should be stated in article 27 itself	<p>Agreed - will be done in final draft</p> <p>Art.26: insert full stop after "this article" and delete the remainder</p> <p>Art.27: add 27(13) "<i>The provisions of Chapter 1 of Part 2 of the Neighbourhood Planning Act 2017 (a) do not apply in so far as they related to the temporary possession of land under this article.</i>"</p>
Article 28(1)	Insert "subject" after "previously"	Agreed - will be done in final draft
(1) (a) and (b)	Shouldn't a statement as to whichever is the earliest be inserted, as in article 21 (1)?	Agreed - will be done in final draft
(2)	Is the reference to "discharge" appropriate as paragraph (1) refers only to suspension?	Agreed - will be done in final draft
(3)	The last word should be plural plans.	Agreed - will be done in final draft
Article 29	Is every body covered by Schedule 6 a statutory undertaker as defined in article 2 (1)?	Will be covered in Note on Statutory Undertakers
Article 30(3)	Should refer to the 2003 Act as this is defined in article 2 (1)	Agreed - will be done in final draft
Article 31(1)(a)	Substitute "operation" for "use"	Agreed - will be done in final draft
(6)	Hedgerow Regulations	Agreed - will be done in final draft (add "s" to "Hedgerow")
Article 34 (2)	It is understood that s.65 of the Control of Pollution Act 1974 has been repealed.	Delete the words "and section 65...exceeded)"
Article 36(1) (c)	Full stop at end	Agreed - will be done in final draft

Subject Matter	ExA's Comment on dDCO	SP Manweb's Response
Article 37(4)	Is the word "and" after "Highways England" necessary (assuming this applies only to the A5(T)); if not, should the word "or" be inserted instead of and, and what are the circumstances in addition to the A5(T)?	No, it is not necessary. SP Manweb to delete the word "and"
<i>Schedule 1</i>		
Work No.1	Delete "and" at the end of the sentence, with full stop after "cable".	Agreed - will be done in final draft
Work No. 2 (i)	Insert "and" between "footpaths" and "bridleways".	Agreed - will be done in final draft
(o)	Delete "and" at the end of the sentence with full stop	Agreed - will be done in final draft
Work No. 3 (i)	As Work No.2 (i)	Agreed - will be done in final draft
Work No. 4 A (i)	As Work No.2 (i)	Agreed - will be done in final draft
(n)	As Work No.2 (o)	Agreed - will be done in final draft
Work No. 4 B (i)	As Work No.2 (i)	Agreed - will be done in final draft
(o)	As Work No.2 (o)	Agreed - will be done in final draft
<i>Schedule 2</i>		
R1	"construction traffic management plan" - delete "with reference 6.3.2 and" and all words after "Secretary of State" as unnecessary	Agreed - will be done in final draft Add in "under Article 35 and Sch.9" after "certified"
	"Environment Agency" - does this need to be defined at all?	SP Manweb to delete
R3(1)	Insert "1" after article 4	Agreed – will insert "(1)"
	Table 1: <ul style="list-style-type: none"> • The references in column (2) should be to works plans • The references to pole heights in column (3) 	SP Manweb agreed to make the following changes: <ul style="list-style-type: none"> • Col 2 heading: replace with "(2) Works Plans sheet number" • Col 2: delete "Works plan sheet" from all lines • Col 3 heading: Change to "(3) Structure height (metres above ground)"

Subject Matter	ExA's Comment on dDCO	SP Manweb's Response
	<p>should be above ground level.</p> <ul style="list-style-type: none"> The pole types listed in column 4 need to be referred to the Diagram 3.2 Illustration of Pole Types contained in Annex C REP2-007, and this diagram should be a certified document in Table 10 of Schedule 9. 	<ul style="list-style-type: none"> Col 4 heading: replace with: "(4) Pole type (as shown in the Pole Type Diagram)" Include a definition in requirement 1: "Pole Type Diagram" means Diagram 3.2 Illustration of Pole Types included in [refer to relevant part of relevant document]"
R5	Should this be more precise as to which other requirements and which certified documents are needed to be complied with?	SP Manweb to delete "any of the other requirements" and replace with "requirements 3, 4, 8 and 10"
R7(2)	<p>The first word in each of the sub paragraphs should be lowercase.</p> <p>(2) (b) – insert "132kV overhead" between "the" and "line"</p> <p>(2) (c) – "construction works" rather than "operations".</p>	<ul style="list-style-type: none"> Agreed – will be done in final draft Agreed – will be done in final draft Agreed – will be done in final draft
R8(1)	<p>Is the "carrying out" referring to construction, maintenance or operation?</p> <p>(3) – reword: "The remediation scheme must be carried out as approved".</p> <p>(5) (b) – insert hyphen in subparagraph</p>	<p>Construction. Replaced "carrying out" with "constructing"</p> <ul style="list-style-type: none"> Agreed – will be done in final draft Agreed – will be done in final draft
R9	<p>This does not seem to have been revised as indicated in the letter from the Applicant dated 27 June 2019 (REP5-001).</p> <p>This could be drafted as follows:</p> <p>(1) No authorised development is to commence until, following</p>	<p>SP Manweb undertook to revisit Requirement 9. It proposes to include the following requirement.</p> <p>"(1) No authorised development is to commence until, following consultation with the relevant highway authority and the Environment Agency, a detailed</p>

Subject Matter	ExA’s Comment on dDCO	SP Manweb’s Response
	<p>consultation with the relevant highway authority and the Environment Agency, a detailed construction environmental management plan, which is substantially in accordance with the construction environmental management plan certified under article 35 in Schedule 9, has been submitted to and approved by the relevant planning authority. The detailed construction environmental management plan must include measures to minimise impacts of construction works.</p> <p>(2) The authorised development must be carried out in accordance with the detailed construction environmental management plan.</p>	<p>construction environmental management plan, which is substantially in accordance with the construction environmental management plan certified under article 35 in Schedule 9, has been submitted to and approved by the relevant planning authority. The detailed construction environmental management plan must include measures to minimise impacts of construction works.</p> <p>(2) The detailed construction and environmental management plan will include a canal crossing plan detailing the measures to manage the risks of overhead power lines to anglers, bird collisions and tree works which has been agreed with the Trust.</p> <p>(3) The authorised development must be carried out in accordance with the detailed construction environmental management plan.”</p> <p>Paragraph (2) is required in order to reflect the discussions with CRT and more importantly to capture in a requirement the need to agree the plan.</p>
R11	<ul style="list-style-type: none"> • Why is a sub-paragraph number 1 needed? • Define “the existing A5(T) access” by reference to the appropriate Access and Rights of Way Plan. 	<ul style="list-style-type: none"> • Agreed – will be done in next draft • Insert after “A5(T) access” “(as shown in [refer to appropriate construction access plan]” • Insert after “underground cable” “(Work No.2)”

Subject Matter	ExA's Comment on dDCO	SP Manweb's Response
	<ul style="list-style-type: none"> The underground cable referred to needs to relate to a specific Work No. Penultimate line: insert "of them" between "approval" and "by". In the last sentence, "approved details" should read "details approved" 	<ul style="list-style-type: none"> Agreed – will be done in next draft Agreed – will be done in next draft
<i>Schedule 3</i>		
	Dandy Ford – one word	Agreed - will be done in final draft
	Installation of LV cable – not defined	Replace "LV" with lower voltage throughout
	Crossing with overhead conductors – not defined	Refer to "132KV overhead line (Work No.3" as opposed to conductors
	Insert "of" between "south-west" and "Brook Field Farm"	Agreed - will be done in final draft
<i>Schedule 4</i>		
Paragraph 5(8)	Delete Article next to Schedule 2	Agreed - will be done in final draft
<i>Schedule 6</i>		
Part 1		
Paragraph 1(2)	The 2003 Act is already defined in article 2 (1)	Agreed – will delete
Paragraph 8	Is a reference to the 1991 Act the New Roads and Street Works Act as defined in article 2 (1) or the Water Industry Act 1991?	New Roads and Street Works Act as defined and so no change required
Part 3		
	"Network Rail" rather than "Railway Interests"?	Agreed - will be done in final draft
Part 4		
Paragraph 31(1)	Reword: "Before commencing construction of any specified work including any temporary works, the undertaker must supply – – –"	Agreed - will be done in final draft
(4)	(4) – insert hyphen in subparagraph	Agreed - will be done in final draft
Part 5		

Subject Matter	ExA's Comment on dDCO	SP Manweb's Response
Paragraph 44	What are the "entities or successor entities" to National Grid?	Designed to capture future successor bodies to NG and hence cannot say at this point in time
Paragraph 45	Is a reference to the 1991 Act the New Roads and Street Works Act as defined in article 2 (1) or the Water Industry Act 1991?	New Roads and Street Works Act as defined and so no change required
Paragraph 47(1)	What are the "electricity tower foundations" in the context of this application?	NG's tower foundations.
(3)(a)	What are "pylon foundations" in the context of this application and are they different to "electricity tower foundations" in the above?	These terms should not be different. In so far as relevant in the final draft, SP Manweb propose to change paragraph 47(1) to refer to "pylon foundations"
Part 6		
Paragraph 57(1)(a)(iii)	What are road space bookings?	These are simply a booking mechanism for road space and times in order to undertake works
(v)	Insert full stop at the end of the sentence	Agreed - will be done in final draft
(c)	Delete "and" at the end of the sentence and insert a full stop	Agreed - will be done in final draft
Paragraph 60(3)	Delete numbers 6 and 60 after paragraph	Agreed - will be done in final draft
(4)	Insert "of this Schedule" after "Part"	Agreed - will be done in final draft
Schedule 7		
Paragraph 4 (13)	Revise the reference to Planning Practice Guidance which has already been updated.	To delete reference to CLG and the date
Schedule 9		
	<ul style="list-style-type: none"> • The reference should be to article 35. • Should plan/drawing numbers be inserted in the definitions rather than application document reference numbers? • Table 10 – delete "Draft" and "including – outline" 	<ul style="list-style-type: none"> • Agreed - will be done in final draft • There are no drawing numbers but only sheet numbers • Agreed - will be done in final draft

Subject Matter	ExA's Comment on dDCO	SP Manweb's Response
	<p>hedgerow management plan and outline construction traffic management plan" from "construction environmental management plan".</p> <ul style="list-style-type: none"> • List the documents comprising the Environmental Statement • Delete "Proposed Pole Schedule included as Appendix 3.1 to the Environmental Statement" and substitute "Diagram 3.2 Illustration of Pole Types contained in Annex C REP2-007". • Check all documents required to be certified are included, for example Limits of Deviation Plans (AS-003) and Construction Access Location Plan (REP1- 005) 	<ul style="list-style-type: none"> • Agreed - will be done in final draft • Agreed - will be done in final draft • SP Manweb will undertake this review and these and any other relevant versions in the next draft • SP Manweb further agreed to remove the application document numbers from this schedule

Agenda Items 5 - 8

2.7. SP Manweb agreed the following timetable:

- (i) DL6:
 - a. SP Manweb to submit a further draft of the DCO, Explanatory Memorandum;
 - b. Post hearing submissions;

- c. Comments on any revised / updated SoCG;
 - d. Comments on any further information requested by the ExA and received to Deadline 5; and
 - e. Any written submissions from Mr Dickin.
- (ii) DL7:
- a. Interested parties' final comments on the draft Development Consent Order submitted at DL6;
 - b. SP Manweb to submit final versions of the Book of Reference, Statement of Reasons, Funding Statement, updated Environmental Statement Glossary and an update of the Schedule at Annex B Responses to FWQ [REP2-007]; and
 - c. Comments on any further information requested by the ExA and received at DL6.
- (iii) DL8: SP Manweb to submit its final preferred DCO on SI template and validation report. Once the ExA has received the final preferred DCO (whether on or before DL8), the ExA will give consideration to closing the Examination.

3. SUMMARY OF ORAL SUBMISSIONS AT THE CAH

Agenda Items 2 and 6 - 10

- 3.1. These agenda items were effectively addressed in the ISH2 or in its summary above (particular in the timetable going forward).

Agenda Item 3

- 3.2. SP Manweb confirmed that the Statement of Reasons and Funding Statement refers to the same body as the applicant and undertaker identified in the draft Development Consent Order. SP Manweb undertook to reissue the Glossary to the Environmental Statement APP-085 to (a) clarify that it applies to the application documents as a whole and (b) to add into the definition as a first sentence the definition included in the draft Development Consent Order under "SP Manweb PLC".

Agenda Item 4

- 3.3. SP Manweb confirmed that plots 2, 3, and 4 fall within the definition of special category land under section 132(1) of the PA 2008. This defines special category land to include “open space” as defined by section 19(4) of the Acquisition of Land Act 1981 which means “*any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground.*” The relevant plots are laid out for (in that there are paths) and used for public recreation and therefore fall within section 132 of the PA 2008.

Agenda item 5

- 3.4. SP Manweb confirmed that the relevant plots where there are outstanding objections specifically to compulsory acquisition are: 58, 86, 87, 88, 122 and 126. SP Manweb is to seek to ensure the relevant statutory undertakers withdraw these objections if and when the relevant protective provisions are agreed.