



## Meeting note

<b>File reference</b>	EN020015
<b>Status</b>	<b>FINAL</b>
<b>Author</b>	Kath Dunne
<b>Date</b>	12 September 2016
<b>Meeting with</b>	SP Manweb
<b>Venue</b>	Temple Quay House
<b>Attendees</b>	<b>The Planning Inspectorate:</b> Kath Dunne Mark Wilson Sarah Tudor Justin John, Legal Adviser to the Planning Inspectorate  <b>SP Manweb:</b> Steven Edwards
<b>Meeting objectives</b>	To discuss SP Manweb's proposal regarding land rights in relation to the North Shropshire Reinforcement Project
<b>Circulation</b>	All participants

### Summary of key points discussed and advice given:

SP Manweb (the developer) was familiar with the Planning Inspectorate's statutory duty, under section 51 of the Planning Act 2008 as amended (PA 2008), to record the advice that is given in relation to an application or a potential application and to make this publicly available. The developer was also aware that any advice given by the Planning Inspectorate does not constitute legal advice upon which applicants (or others) can rely.

National Policy Statement EN-5 para 2.2.4 was discussed:

*'Where the network company does not own (or wish to own) the relevant land itself, it may reach a voluntary agreement that gives it either an easement over the land or at least a wayleave permission to use it during the tenure of the current owner or occupier. Where it does not succeed in reaching the agreement it wants, the company may, as part of its application to the IPC, seek to acquire rights compulsorily over the relevant land by means of a provision in the DCO. The applicant may also apply for the compulsory purchase of land: this is not normally sought where lines and cables are installed, but may occur where other electricity network infrastructure, such as a new substation, is required. The above issues may be relevant considerations when the electricity company is considering various potential routes'.*

The Planning Inspectorate interprets the above paragraph to mean that, where voluntary agreements are not reached (for example through easements or way leaves), the developer may apply to seek compulsory acquisition within their application for a development consent order (DCO) for their Nationally Significant Infrastructure Project (NSIP).

The Planning Inspectorate advised that developers should demonstrate that all reasonable alternatives to compulsory acquisition have been considered, prior to applying for compulsory acquisition under the Planning Act 2008 (PA2008). Therefore applicants are expected to seek land, or rights over land, by voluntary agreement prior to seeking this through compulsory means. It is for the developer to decide by which voluntary means/process it wishes to seek to reach agreement.

The developer intends to seek to reach voluntary agreements (voluntary way leaves and easements) and it is also considering the possibility of using powers under the Electricity Act 1989 for obtaining land rights (if necessary). The Planning Inspectorate explained that, if an Inspector were to be appointed to examine any compulsory process under the Electricity Act, this process would not be combined with any related NSIP PA2008 examination. The developer was advised to consider the timing of any compulsory land rights request being made outside the PA2008 process, for example it should consider what information would be available to the Secretary of State at the time he/she must make a decision on the application for an order granting development consent (DCO), and if uncertainty over the outcome of any external process could impact upon that decision.

The Planning Inspectorate advised that if the developer decided to pursue compulsory acquisition through the PA2008 process, it would be required to undertake statutory pre-application consultation on this matter. The developer could, if appropriate, explain in its statutory consultation that it will be making, or intends to make, a request for compulsory acquisition powers under the PA2008 but that there may be a way that such request could be removed if agreement is reached with landowners (or, if appropriate, if the necessary (i.e. compulsory) way leave process under the Electricity Act is followed instead).

The Planning Inspectorate advised the developer that it will need to decide whether or not to include a request for compulsory acquisition under the PA2008 with its application for a DCO prior to submission of that application.