



## Meeting note

<b>File reference</b>	EN030002 Keuper Gas Storage Project
<b>Status</b>	<b>Final</b>
<b>Author</b>	Ewa Sherman
<b>Date</b>	9 March 2015
<b>Meeting with</b>	Keuper Gas Storage Limited
<b>Venue</b>	Conference Room 5, Temple Quay House, Bristol
<b>Attendees</b>	<b>The Planning Inspectorate (PINS)</b> Tom Carpen – Infrastructure Planning Lead Oliver Blower – Case Manager Ewa Sherman – Case Officer Richard Kent – EIA and Land Rights Advisor Melanie Bischer – CSU Oliver Lowe - CSU <b>Keuper Gas Storage Limited (the applicant)</b> Robin Craig - INEOS Paul Zyda – Zyda Law Liz McCartney – Zyda Law Jonathan Leary – Zyda Law Rebecca Eatwell – PPS Group
<b>Meeting objectives</b>	Draft documents meeting
<b>Circulation</b>	All attendees

### Introduction

PINS outlined its openness policy and advised that a note of the meeting would be published on the project website in accordance with s51 of the Planning Act 2008 (PA 2008). Advice given at the meeting does not constitute legal advice upon which the applicant (or others) can rely.

### Draft Development Consent (DCO) / Explanatory Memorandum (EM)

The applicant submitted draft documents to PINS for review ahead of the meeting. PINS provided draft advice in regards to the applicant's draft DCO prior to the meeting to facilitate discussion, and confirmed that detailed advice would be sent in writing and published along with any other s51 advice as soon as practicable thereafter ([Click here to see subsequent S51 Advice dated 19 March 2015](#)).

PINS noted that the draft DCO did not appear to be in the SI template, nor did it conform to PINS' guidance on drafting the DCO set out in Advice Note 15. The applicant was advised to review the DCO against Advice Note 15.

PINS advised that the applicant check the DCO (and other application documents) for Town and Country Planning Act 1990 terminology where Planning Act 2008 terms should instead be used.

PINS confirmed that Model Provisions are no longer in force. PINS recognise that the past model provisions can still be a useful starting point when drafting the DCO; however, where they are adapted it would be helpful for the applicant to provide track changes showing how they have been altered from the originals.

PINS noted that the words 'up to' in the description of development have been removed from the DCO but remain in the Consultation Report and application form description. PINS asked why the apparent flexibility afforded by the words 'up to' had been removed, and advised that the description used in the various final documents must be consistent. The applicant explained that 'up to' was removed as there was now certainty that '19 cavities' could be delivered.

PINS noted that the words 'cavities' and 'caverns' were used interchangeably between documents. The applicant was reminded that the term 'cavities' is used in s17 of the PA 2008.

PINS noted that works 1B to 1W listed in Schedule 1 of the DCO are labelled as 'associated development', but the cavities would seem to be adequately covered by Work 1A and are integral to the NSIP. PINS advised that, on the face of it, these works are not associated development and therefore should be removed from the draft DCO Schedule 1 description of associated development. The description of these works would be better placed in the Explanatory Memorandum as a description of Work 1A. PINS highlighted that the above changes to the DCO would have a knock on effect to the referencing within plans and between other documents, and time should be factored in to correct resultant discrepancies.

PINS suggested that a Statement of Common Ground with the Canal and Rivers Trust would be useful.

### **Draft Statement of Funding**

PINS noted that the draft Statement of Funding in its current form lacked detail. PINS advised that the final version should provide as much information as possible about the resource implications of acquiring the land, implementing the project for which the land is required, and that adequate funding is likely to be available within the statutory period following the Order being made.

### **Draft Plans**

PINS confirmed that the draft plans appear to be broadly acceptable based on initial checks, but that further details would be provided in writing after the meeting. PINS noted that without having seen the Book of Reference (BoR), it was not possible to conduct a complete plan check. The applicant was reminded again to bear in mind that any drafting changes to the DCO / EM may have knock on effects to the plans' references.

### **Draft Consultation Report (CR)**

PINS noted that the Consultation Report remains only partially complete, with missing sections in tables and the appendices still outstanding. However, PINS recognises that the document is a working draft and that generally the applicant's approach appears

to be acceptable. PINS advised of the importance of showing how the applicant has had regard to consultation responses in shaping the proposed development, and provide evidence for this. Detailed guidance on how best to do this is laid out in PINS Advice Note 14.

PINS emphasised the importance of providing clear evidence for all statutory requirements (either in the body of the report or the appendices), including such things as copies of advertisements, site notices, consultation correspondence etc. PINS reminded that during the acceptance stage PINS may request full copies of all the original correspondence received as part of the statutory consultation stage.

PINS explained that it would also contact the local authorities and request their views on the adequacy of the consultation carried out by the applicant. The applicant confirmed that the local authorities have been involved throughout the consultation stage and are aware of their duties.

PINS strongly encouraged the applicant to allow enough time to check the report thoroughly before submission, especially checking that all relevant information has been included and that the information is clearly and accurately cross-referenced within the report.

### **Draft HRA**

PINS provided a summary of its initial comments on the draft Habitats Regulation Assessment (HRA), including:

- The degree of the proposed development's reliance on existing environmental permits and their relationship to the draft HRA report;
- The ability of the DCO to secure mitigation measures that are relied upon in excluding likely significant effects on European Sites,
- The evidence base in terms of any habitat and / or functional loss to European Sites and their qualifying features associated with the proposed brine outfall construction activities; and
- The assessment of potential effects on European Sites during any decommissioning phase of the proposed development that would be consented by the DCO.

PINS confirmed that more detailed observations would be included in section 51 advice following the meeting.

### **Draft Consents Management Plan**

CSU raised the anticipated date of the draft Great Crested Newt licence application resubmission – the applicant confirmed that this was to be resubmitted to Natural England imminently.

In relation to badgers, CSU also highlighted that Natural England's recommended approach to protected species licensing is that a Letter of No Impediment should be sought during the pre-application phase if the latest surveys indicate that a licence is likely to be required. CSU recommended that the applicant contact Natural England as soon as possible if they are considering deviating from this approach in order for agreement to be reached prior to examination.

The applicant confirmed that there is an updated Consents Management Plan. The CSU asked if a copy could be forwarded at their earliest convenience.

The CSU confirmed that they had spoken to ERM in relation to the non-DCO consents required. ERM now have the correct contact details within the Environment Agency to progress pre-application discussions.

The applicant will require a new environmental permit for the gas processing plant. The applicant advised that it has always been its intention to apply for this after the examination of the DCO. The CSU reiterated that the Environment Agency does not issue "letters of no impediment", as this would prejudice due process. Therefore, unless they have reached their draft decision or final decision on the environmental permit application prior to close of examination, they will be unable to comment on permitting related matters, other than to confirm that the information provided would be sufficient for an environmental permit application. The Environment Agency will give the applicant a preliminary position on permitting matters during pre-application. The CSU suggested that the EA position will be one of the following:

- No major permitting concerns - this means that the Environment Agency consider that the activity in question is of a type and nature which should be capable of being permitted.
- More detailed consideration is required and parallel tracking is recommended as appropriate.
- Don't proceed - unlikely to grant a permit.

The applicant also intends to rely on existing environmental permits for water discharge and mining waste and abstraction licences for the purposes of the proposed development. These existing permits are all in the name of Ineos Enterprises. With regard to this approach, the CSU reiterated that the applicant needs to be clear on a number of aspects:

- That the proposed development (plus existing permitted activities) can operate within the limits of the existing permits / licences;
- That the activities that they wish to undertake are consistent with those described on the original application forms, which have been consulted upon with the general public;
- That they are clear that the name of the operator on the consent meets the definition of operator as prescribed in Regulatory Guidance Note 1 (as provided to ERM by email on 6 March 2015).

The applicant confirmed that this is the case. The CSU suggested that they will require confirmation in writing from the Environment Agency.

The applicant also confirmed that they have already obtained the flood defence consents that they require from the Environment Agency.

### **Preparation for submission**

PINS noted that the draft Application Form is incomplete and that the description does not match the updated description in the DCO.

PINS advised that the DCO must be made in the form of a Statutory Instrument (SI), using the SI template and following SI drafting conventions.

In line with PINS Advice Note 6, in preparing for the submission of the application, the applicant may find it useful to complete its own version of the section 55 checklist (which is the document PINS use to assess the application on submission). PINS noted that the draft consultation report refers to a draft s55 checklist in Annex 39.

PINS reminded that applicant of practical matters to complete before submission, including the need to provide an electronic index of all application documents, payment of the application fee, and submission of the GIS shape file.

The applicant confirmed that the likely submission date may remain in Q1 2015 but that sufficient notice would be given to PINS in advance of the submission date.

**Specific decisions / follow up required**

PINS will arrange access to the SI template for the applicant.

The applicant will submit a draft Book of Reference and draft Land Plans for PINS to review.

PINS will provide detailed 51 advice following the meeting ([Click here to see subsequent S51 Advice dated 19 March 2015](#)).