



Meeting note

File reference	EN030002 Keuper Gas Storage Project
Status	Final
Author	The Planning Inspectorate
Date	25 September 2015
Meeting with	Keuper Gas Storage Ltd
Venue	Temple Quay House
Attendees	Planning Inspectorate Tracey Williams – Case Manager Ewa Sherman – Case Officer Lynne Franklin – Legal Manager Keuper Gas Storage Ltd Paul Zyda - Zyda Law Alexandra Jones - Zyda Law Richard Stevenson - INOVYN Enterprises Limited
Meeting objectives	Comments on third suite of draft documents
Circulation	All Attendees

Summary of key points discussed and advice given:

Introduction

The Planning Inspectorate outlined its openness policy to ensure that the developer understood that any issues discussed and advice given would be recorded and placed on the Planning Inspectorate's website under s51 of the Planning Act 2008. Furthermore, it was made clear that any advice given did not constitute legal advice upon which the developer (or others) can rely.

All comments on the third suite of draft DCO application documents can be found here:

<http://infrastructure.planninginspectorate.gov.uk/projects/north-west/keuper-gas-storage-project/?ipcsection=advice&ipcadvic=05f070bf51>

Draft Development Consent Order (DCO) and Explanatory Memorandum (EM)

The applicant queried whether Schedule 8 (Protective Provisions) needs to be included within the DCO, as they are in negotiations with the statutory undertakers such as the Gas National Transmission System, Scottish Power Energy Network (SPEN), the local Highway Authority and the Canals and Rivers Trust. The applicant queried whether it was necessary in all cases to provide protective provisions. The Inspectorate advised that whether or not protective provisions are required depends on the extent to which affected parties (in this case statutory undertakers) wanted binding provisions in the DCO to protect their position. In the absence of protective provisions or confirmation from statutory undertakers that there was no serious detriment to the carrying out of their undertaking it may be difficult for an ExA to recommend the inclusion of article 28 (given the statutory requirements in s127 of the Planning Act) However, given the constructive discussions currently underway with the statutory undertakers it was noted that the applicant may not in fact require the compulsory powers provided in article 28 in which case of course it would not be necessary for the Secretary of State to be satisfied that there would be no detriment to the statutory undertakings (or that it was necessary to interfere with apparatus).

Draft Statement of Reasons and Funding Statement

The Inspectorate provided further advice on the role and purpose of both documents.

The Inspectorate advised that the Statement of Reasons is the key document for outlining the applicant's reasons and justification for the grant of CA Powers

The Inspectorate advised that the Funding Statement should provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required. The applicant should be able to demonstrate that adequate funding is likely to be available to enable them to carry out Compulsory Acquisition (CA) within the statutory period following the order being made.

Draft Book of Reference

The Inspectorate provided some comments on the latest version of the BoR and advised that the revisions mean that it is now much better presented. It was also suggested that the BoR submitted for another project the Triton Knoll Electrical System might be another good example of how the document could be prepared. The document can be found on the project's page.

Draft Consultation Report

The Applicant advised that they are currently carrying out additional consultation, having identified a further 75 persons in the vicinity that might be affected by the proposed development. The project website has been updated as the consultation started on 11 September 2015. The applicant is also in discussions with Cheshire West and Chester Council, seeking their views on the additional consultation and adequacy of consultation generally. The applicant will provide evidence in the Consultation Report.

Draft Plans

The Inspectorate advised that there needs to be consistency between the Book of Reference and the Land Plans which should show where rights will be extinguished. The legends/titles used on the plans should also be consistent with the terms used in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP) which prescribe the plans which must be submitted with applications. For example "Approved Plans" in part 2 of schedule 1 referred to an Order Limits plan. The Inspectorate queried whether this meant the works plan. The APFP require an application to be accompanied by a works plan which must amongst other things show the limits within which the development and works may be carried out.

The applicant queried where a list of approved plans should be in the DCO. The applicant based their reasoning on the Hinkley Point C DCO. The Inspectorate advised that if the DCO was intended to tie construction of the development to approved plans there was no prescribed approach to where the plans should be listed. One approach might be to use a requirement to secure construction in accordance with approved plans and then to define them in the preamble to the requirements. The principal power in article 3 would then grant development consent subject to the requirements (including the approved plans). The approach taken in the Hinkley Point C New Nuclear Power Station DCO (listing the approved plans in part 3 of schedule 1) was equally valid and achieved the same effect. The important point is to ensure consistency between references to "approved plans" in the main body of the DCO and the requirements.

Crown Land – The applicant has not yet concluded whether the application affected interests in Crown Land. The Inspectorate advised that if it did then the information should be added to Part 4 of the BoR.

Preparation for Submission

The Applicant confirmed that they intend to submit the project in late October 2015 as they are currently compiling responses to the most recent consultation which is due to close on 12 October 2015. They are also awaiting comments for the Health and Safety Executive in relation to the Hazardous Substances Consent application. The Inspectorate reminded the Applicant they should submit a shapefile at least two weeks ahead of submission, alongside a completed electronic index of all application documents in order that we can check the naming conventions have followed the advice in Planning Inspectorate Advice Note 6: 'Preparation and submission of application documents'. The Inspectorate advised that the applicant can now choose whether application documents are published on the project website during the acceptance stage. The applicant agreed that they would like this to happen.

Specific decisions / follow up required?

The applicant agreed to keep the Inspectorate up to date with their anticipated submission date.