



Meeting note

File reference	EN060001
Status	Final
Author	Jack Wride
Date	02 May 2013
Meeting with	RWE npower
Venue	Planning Inspectorate (2 Rivergate)
Attendees	RWE npower David Tate WCGP Project Manager Hugh Morris WCGP Environmental Manager Helen Burley WCGP Consents Specialist Matthew Trigg WCGP Planning Manager The Planning Inspectorate Simone Wilding Head of Case Management Jack Wride Case Officer David Price Environmental Services Manager Richard Kent Environmental Services Advisor Nicola Mathiason Lawyer - Legal Services
Meeting Type	Pre-Submission Update
Circulation	All Attendees

Summary of key points discussed and advice given:

Introductions

The **Planning Inspectorate (PINS)** advised that under its openness policy a meeting note would be published of the proceedings, including any advice given under s.51 of the Planning Act 2008 (PA 2008). It was also noted that any such advice did not constitute legal advice on which the applicant (or others) can rely.

Project Update

Subject to the implementation of the Growth and Infrastructure Act, **RWE npower (RWE)** anticipate submission of the DCO application at the end of June 2013. Their current asset re-organisation is not expected to have any impact on the application with the company name (as applicant) remaining unchanged throughout. **PINS** agreed to send **RWE** the link to the commencement order once it is published. Please see link provided overleaf.

PINS confirmed that if the application is accepted for examination, the exact length of the pre-examination period varies depending on when the applicant notifies parties under s.56 of the PA 2008 of its acceptance and the deadline they give for the submission of relevant representations. The timeframe for relevant representations is a statutory minimum of 28 calendar days from the day after the second consecutive publication of the notice. The applicant should be mindful of any significant factors within this period that may hinder parties making representations.

Ecology & Other Surveys

RWE reported that following advice from **Natural England (NE)** they have undertaken the ecology survey verification surveys needed to validate their original surveys and amend the relevant Environmental Statement (ES) as applicable. Updated 2013 verification survey reports will be appended to the ES.

RWE have found no substantive differences from the original surveys apart from a single section at the Yoxall end that has been planted as part of the National Forest. The National Forest are aware of the Willington scheme and have included a safeguarded corridor with no tree planting for the pipeline.

RWE noted that there have only been a couple of minor issues regarding their surveying. One land owner has refused site access, which has therefore been assessed from adjacent fields using a worst case scenario regarding potential wildlife (Great Crested Newts present in the pond etc). **RWE** report having confirmation from NE that they are comfortable with this approach.

RWE also noted that a quarrying company owning farm land within the scheme area has requested to provide the survey information themselves. Given this situation, the previously discussed s53 application (Entry Rights) is now considered no longer necessary.

RWE have identified limited historic use issues along the route. **RWE** have records for the usage of a landfill area due to its association with Willington Power Station and the **Environment Agency (EA)** considers the landfill to be inert. Mineral rights and planning consents have been looked at with Derbyshire County Council (DCC) and **Staffordshire County Council (SCC)** to address any potential sterilisation issues. The location and type of mine workings in the area would negate any land stability issues.

RWE consider that there are no applicable European sites and that the only licensable issues are Great Crested Newts and, potentially bats. **NE** have agreed to a requirement in relation to protection of potential bat roosts (although none have been identified in surveys). **RWE** will supply a table in each ES chapter that details the relevant requirements in the DCO.

PINS suggested that written confirmations from **EA, NE, SCC** and any other relevant consultees regarding the above information be included within the ES's appendices to provide a robust evidence base.

Landowner, Book of Reference and Compulsory Acquisition Status

RWE stated that they have exchanged consent documents on the majority of the pipeline's length, including some temporary rights in regard to construction access that are also listed in the Development Consent Order (DCO). RWE anticipate to be able to exchange with most of the remaining identified land owners before the application is submitted.

RWE noted that protective provisions for all statutory undertakers, such as BT, Network Rail and Virgin Media have been incorporated within the DCO and RWE is in ongoing negotiations with SUs for signature of consent letters for the purposes of entering into crossing agreements.

PINS noted that the accompanying Book of Reference should clearly differentiate between the different categories of land owners. This is of particular importance as only category 1 and 2 owners are given Affected Persons status (and therefore can request a Compulsory Acquisition hearing) during the examination.

PINS noted that there is no need to include the column "principal rights being sought in the DCO" as the powers being sought should be set out in the DCO. Instead **RWE** should set out the third party rights / interests that will be affected by those powers, for example listing the freehold owners, lessees and occupiers of the land and the nature of the existing rights affected, eg access rights.

RWE stated that there had been two parcels of land which had been considered to potentially contain Crown land, RWE believed that they have now acquired the land / rights from the Treasury Solicitors for one plot, and are in the process of securing the land / rights on the other.

PINS reminded the applicant that, due to its statutory designation and s135 of the PA 2008, that if any Crown Land remained within the order boundaries, it should be made clear within the Book of Reference that they were not seeking to compulsorily acquire Crown land.

PINS stated that if a DCO included powers compulsory acquisition of a third party interest in Crown land, consent would have to be obtained by the applicant during the examination process from the appropriate Crown authority to the inclusion of such powers and the issue clearly addressed within the DCO's explanatory memorandum.

PINS noted that if there was any confusion as to whether any Crown Land was included within the application, **RWE** should seek their own further legal advice. **PINS** also offered to provide further feedback on the draft Book of Reference if it was supplied in advance of the application.

Limits of Deviation Alterations

RWE noted that some minor changes to the pipeline's limits of deviation had been made after the formal pre-application consultation had occurred. **PINS** noted the changes and re-iterated that the previous s.51 on this subject regarding potential re-consultation remained valid. A link to this information on the Planning Inspectorate website is provided below.

<http://infrastructure.planningportal.gov.uk/projects/east-midlands/willington-gas-pipeline/?ipcsection=advice&ipcadvice=9aab4bbc71>

Crossing Agreements / Works

RWE stated that a number of crossing agreements were in progress but, due to the length of time to finalise such agreements, many will not be signed by the application's submission.

There are certain works that do not fall within the definition of "streetworks" under the New Roads and Street Works Act 1991. Provisions dealing with these works are therefore being included within the S106 agreement so that Staffordshire County Council can treat **RWE** in the same way as a Statutory Undertaker.

Comments on draft Consultation Report

PINS highlighted the following issues:

- Clearly note which consultation measures relate to the different consultation strands (s42, s47 and s46)
- Identify which category of s42 each party falls under relates (see advice note) within the section on s42 (ie local authority / prescribed consultee / landowner) and provide a clear overview of all such parties that are currently split between Part 3 and Part 5 of the report.
- The need to show compliance with the DCLG Pre-application Guidance. This could be done via a mini-table approach that lists how key concepts had been addressed.
- Supply the evidence of local authority consultation and responses relating to the SoCC, which can be in the form of appendices of email responses. It is acceptable to show where the local authority has declined to comment.
- Note where there has been any divergence from the Statement of Community Consultation (SoCC) and the rationale behind any changes
- Identify / name the hard to reach groups noted in the Consultation Report.
- Supply evidence of all the published press notices (as opposed to a clean text version of a notice).
- Correct referencing issues in the accompanying table of compliance for the relevant Consultation Report appendices. **RWE** confirmed that these had been recently addressed.

PINS queried why Lichfield District Council was identified as an A local authority in the Consultation Report and a B local authority in the SoCC. **RWE** noted that the SoCC was correct and the changes to the scheme boundaries would be reflected in the final Consultation Report.

Draft Statement of Common Ground Status

PINS emphasised the importance of **Statement of Common Ground (SoCG)** within the process and that these could be submitted alongside the application as an aide for the Examining Authority's initial assessment of issues, rather than waiting for them to be requested.

PINS stated that SoCGs are iterative documents that could be revisited as understanding between parties evolved throughout the process. See the DCLG examination guidance for further details (link below).

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192673/Planning_Act_2008_-_Guidance_for_the_examination_of_applications_for_development_consent.pdf

RWE stated that they started drafting SoCGs last November and have started engaging with the host local authorities, English Heritage, the **EA** and **NE**.

Draft S106 Planning Agreement Status

Work has been undertaken with the local authorities in this regard. The two district councils had no comment. Staffordshire County Council has provided some comments following which some DCO requirements have been amended. RWE were aiming to append the draft s106 agreement to the SoCG.

Examining Authority (Panel v single Inspector)

PINS advised that the appointment of the Examining Authority takes place following the receipt of the developer's s58/59 certificate after the close of the relevant representations period. While each application is assessed on its own issues, appointments on other NSIP cases to date can be taken as an indicator of the general approach taken.

Other

PINS noted that Julie Foley at Environment Agency oversees all NSIPs work to provide continuity of advice.

Specific decisions / follow up required?

- **RWE** to send **PINS** a shape file relating to the final red line application boundary
- **PINS** to send **RWE** a link to the Growth & Infrastructure Act commencement order once it is published.
- **PINS** offered to provide further feedback on the draft Book of Reference if it was supplied sufficiently in advance of the application.