

Meeting Note

File reference	EN060001 – Willington Gas Pipeline
Status	Final
Author	Richard Price

Meeting with	RWE Npower
Meeting date	27 October 2011
Attendees (IPC)	Glyn Roberts (Pre-application Commissioner) Simone Wilding (Case Leader) Simon Butler (EIA Manager) Nicola Mathiason (Lawyer) Richard Price (Assistant Case Officer)
Attendees (non IPC)	Hugh Morris (Senior Consents Manager, RWE) Helen Burley (EIA/Consents, RWE) Verity Barr (Consultation Advisor, Camargue) David Tate (Pipeline Project Manager, RWE) Bill Simms (Land Agent, Bruton Knowles)
Location	Temple Quay House, Bristol

Meeting purpose	To discuss RWE’s application schedule.
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Summary of key points discussed and advice given	<p>All attendees were aware of the IPC’s policy of openness and transparency, and the IPC not being able to provide legal advice or comment on the merits of an application.</p> <p>Program Update RWE reported that their draft Environmental Statement (ES) was now ready, while the draft Development Consent Order (DCO) and Book of Reference (BOR) were still being worked on.</p> <p>RWE indicated that some local authorities (LAs) still have concerns that 28 days was inadequate to enable them to carry out their internal consultation processes despite the meeting held with the IPC and RWE in June 2011. RWE have now adjusted their programme such that the draft ES will be available to the LAs in early November, ie substantially in advance of the formal consultation period in order to address this concern. A further meeting in December is intended to achieve joint agreement with all relevant LAs on the draft requirements. RWE have also requested ‘minded to approve’ letters from LAs from whom they will require additional consents. Other ‘minded to’ statements are being sought from the Environment Agency (Flood Defence Consent & Land Drainage Consent) and the Highways Agency (matters relating to Speed restrictions).</p>
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RWE has scheduled stage 2 s42 consultation to take place in February/March 2012 and is considering three to four presentation locations along the pipeline route. RWE reported that a 'dummy' application (appended to draft ES) had been made to Natural England regarding protected species. They have received an initial response which requires follow up action from RWE.

RWE affirmed that bat surveys had been completed and no roost sites had been identified.

Land Rights Strategy

In relation to Part 1 of the BOR, RWE stated that most landowners have signed the consent form, and over half have now legally exchanged.

The developer requested advice on where statutory undertakers should appear in the BOR and when special parliamentary procedure applies. The IPC advised that statutory undertakers may fall into part 1, part 2, part 3 or part 5 of the BOR depending on their interests and rights in the land. Special Parliamentary Procedure applies if a statutory undertaker makes a representation, and the representation is not withdrawn. This will change, likely to be in April of next year, when the Localism Act comes into force. Special Parliamentary Procedure will only apply if the statutory undertaker makes an objection, rather than a representation, which is not withdrawn.

RWE explained they have entered into agreements with parties directly affected by the pipeline; however the ecological survey corridor is substantially wider than the Order limits corridor. RWE implied that subject to advice from in-house lawyers, landowners /tenants/occupiers in the ecological survey corridor may be technically affected by the project and may therefore need to be listed in the BOR and consulted accordingly. RWE sought confirmation from the IPC whether parties located outside of the Order limits could become affected persons as set out in PA 2008 and whether RWE can rely on Model Provision 16 in the DCO to this end. The IPC directed RWE to s59 PA 2008 for the definition of affected persons. The Model Provision states that with regard to authority to survey and investigate land '...any land shown within the Order limits or which may be affected by the authorised project...'. The IPC advised that the developer should seek legal advice on this matter on which they can rely.

The developer stated that ponds located in the ecological corridor had already been surveyed, but this would need to be repeated in three years time. RWE therefore sought clarity on whether s53 would be applicable post-consent. The IPC directed RWE to IPC Advice Note five: Section 53 – Rights of Entry. The IPC stressed that a right of entry to undertake surveys, which can be authorised by the IPC under s53, is only given as a last resort

i.e. where reasonable efforts to secure voluntary agreement with the land owner had failed.

RWE declared that they are in the process of compiling a "Schedule of All Interest in Land", and sought clarity on where this should be located in the application documentation. The IPC advised that this document would be suitable as an appendix to the Consultation Report, or provided separately as an additional other document.

The DCO and Explanatory Memorandum Status

RWE provided an update on the Draft DCO and Explanatory Memorandum, which are both currently being revised by RWE's legal team. RWE are hoping to be able to submit the final draft DCO to the IPC for comment in early/middle of December to enable the IPC to provide comments on it by late January 2012. While the IPC would endeavour to provide comments on the draft DCO as quickly as practicably possible, this may take 6 weeks as staff are under a lot of pressure with statutory deadlines on applications in the formal process.

The IPC advised that the Draft DCO submitted at application should be the most final version practicable..

The Draft Environmental Statement

RWE explained that the balance of the Draft ES constituted a larger amount of baseline data, with shorter impact assessment sections consisting of mitigation measures, and an emphasis on the avoidance of impact. The developer stated that approximately 90 percent of the survey content constituted ecology. The IPC suggested that RWE consider that the baseline data was relevant and up-to-date and that mitigation strategies were assessed thoroughly in accordance with best practice and through approval with the relevant statutory bodies (and non-statutory where relevant), and any impacts made clear. All supporting information and technical documents should be clearly marked within the Appendix of the ES, where relevant, particularly those items required within the APFP Regs 2009 i.e. Flood Risk Assessment, statutory habitat and species designations and historical features.

Application Documents and Plans

RWE provided an update on their draft application documents, and sought clarity on several issues regarding plans. The developer stated that all plans had been drafted at A0, and that the land and works plans both consisted of ten separate plans with a key plan for each. The IPC advised that the Localism Bill is likely to amend the regulations relevant to this query, but at present plans should not be provided at scales smaller than 1:2,500.

The developer is currently considering whether to show 'affected land' on the land plan, and noted that this would be dictated by

	<p>any legal advice they receive in relation to the s53 query. RWE drew attention to the works plan, noting that the limit of deviation had been reduced from 75m to 30m either side of the pipeline route and sometimes less than in response to specific circumstances. RWE will be setting out the rationale for the LOD in a chapter to support the land and works plans. RWE reported that discussion with Network Rail on 'Heads of Terms' are on-going.</p> <p>AOB</p> <p>The developer requested advice from the IPC on the physical process for any transfer of benefits, and the requirement of any additional documentation. The IPC advised that it would be for the Secretary of State (SoS) for the Department for Energy & Climate Change (DECC) to issue consent to the transfer. There is no formal process in place, and RWE should request consent in the first instance by letter to the SoS.</p> <p>RWE requested advice on whether the indicative 'Above Ground Installation' (AGI) plan should be submitted as part of the application. The IPC advised that the AGI plan should be included if it would help/is necessary to understand the DCO.</p> <p>RWE requested clarity on whether plans from ES should be duplicated in other documents, or if it would be sufficient to cross-refer between documents. The IPC advised that either method would be permissible, but expressed a preference towards cross-referencing.</p>
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Specific decisions/ follow up required?	<ul style="list-style-type: none"> • Arrange further meeting following the submission of Draft DCO for comment.
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Circulation List	All attendees.