



## Meeting Note

<b>File reference</b>	<b>EN060001 – Willington Gas Pipeline</b>
<b>Status</b>	<b>FINAL DRAFT</b>
<b>Author</b>	<b>Robert Ranger</b>

<b>Meeting with</b>	<b>RWE Npower</b>
<b>Meeting date</b>	<b>3 October 2012</b>
<b>Attendees (Planning Inspectorate)</b>	<b>Simone Wilding</b> (Principal Case Manager) <b>Nicola Mathiason</b> (Lawyer) <b>Robert Ranger</b> (Case Officer) <b>Stella Perrett</b> (Assistant Case Officer)
<b>Attendees (non Planning Inspectorate)</b>	<b>David Tate</b> (WCGP Project Manager, RWE Npower) <b>Hugh Morris</b> (WCGP Environmental Manager, RWE Npower) <b>Adriana Gasparini</b> (WCGP Legal Advisor, RWE Npower) <b>Matt Trigg</b> (WCGP Planning Manager, RWE Npower) <b>Bill Simms</b> (Bruton Knowles – Land Agents) <b>Karen Howard</b> (RPC – Legal Advisors)
<b>Location</b>	Planning Inspectorate Offices, Temple Quay House

<b>Meeting purpose</b>	Pre-Submission Update and Review
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<b>Summary of key points discussed and advice given</b>	<p>RWE Npower, RPC and Bruton Knowles were previously advised of the IPC's openness policy (that any advice given will be recorded and published on the web-site under s.51 of the Planning Act 2008 (the Act) and that any advice given does not constitute legal advice upon which applicants (or others) can rely).</p> <p><b>Programme Update</b></p> <p><b>RWE</b> reported completing stage 2 formal consultation under s42 in July/August 2012. They intend to undertake further consultation with a few land owners, resulting from minor amendments to the order limits as a result of discussions with Network Rail. RWE are also in ongoing consultation with some statutory consultees regarding protective provisions.</p> <p><b>RWE</b> expect to submit the application in the second half of November 2012.</p> <p><b>PINS</b> advised that it will send a letter to all relevant local authorities (LAs) approximately 5 weeks before the anticipated submission date. This is to encourage LAs to prepare for PINS requesting an adequacy of consultation response upon receipt of the application as LAs are given only 2 weeks for returning these. PINS requested a list of LA contacts with whom RWE had been corresponding and an</p>
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updated GIS shapefile to enable PINS to produce a current list of statutory consultees. This is particularly important if the order boundary has changed since a scoping opinion was requested.

**RWE** agreed to provide this by mid October. They asked if the acceptance period of 28 days was calendar days, and whether PINS received applications over the holiday period.

**PINS** advised that the 28 day period was calendar days, and that PINS receives applications on any working day; irrespective of forthcoming holidays. PINS also advised that 28 days for acceptance is very tight and therefore holidays reducing this time may create issues. Eg some LAs being closed over Christmas, additional information may need to be requested from the developer etc.

**RWE** asked when registration of interested parties would take place, if the application was made in late November and subsequently accepted.

**PINS** explained that the deadline for registering as an interested party is set by the applicant when advertising the acceptance of an application; subject to statutory minimum periods. The applicant has broad discretion as to when to advertise acceptance. See s56 of the Act in conjunction with Regulation 8 of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009.

**RWE** indicated anticipating an internal corporate restructuring in the near future. As this may result in a change of applicant company name RWE asked for advice whether, and if so how, a change of company name could be accommodated post submission. **PINS** agreed to look into this matter and provide follow up advice.

#### ***Review of Application Documents***

**RWE** illustrated on a draft works plan how different elements as eg the pipeline, order limits, limits of deviation, survey land etc are shown on the plan. RWE also explained the draft book of reference, which had been colour-coded to match the land plans. RWE advised that the draft plans and book of reference had formed part of RWE's latest round of consultation and were in the public domain.

**RWE** explained the changes that had been made to the order limits around the area where the proposed route crossed Network Rail land; presently at the site of a level crossing. These amendments are to provide limits of deviation that allow for alternative crossing options should any technical issues arise from passing a gas pipeline under a level crossing.

**RWE** explained that the draft DCO had not substantially

	<p>changed since consultation, with the exception of article 37 and the introduction of protective provisions at the request of statutory consultees. PINS agreed to advise on these changes as appropriate within the next two weeks.</p> <p><b>PINS</b> noted that the Secretary of State had demonstrated a preference for modern drafting; for example, using the word “must,” where “shall” might have been used in the past.</p> <p><b>Land Issues</b></p> <p><b>RWE</b> explained that it has reached voluntary agreement with most of the land owners and is in constructive discussions with the remainder. As there are some rights where the owner is unknown and a risk that some organisations may not conclude voluntary agreements sufficiently quickly compulsory acquisition powers will be required in the DCO.</p> <p><b>RWE</b> explained their intention to secure as much of the land and rights as possible by agreement, and would seek to amend the book of reference during the course of the examination to eliminate those parcels of land that had been so secured.</p> <p><b>PINS</b> advised that any amendments to the book of reference should be submitted before the close of the examination.</p> <p><b>RWE</b> asked if an application for a s127 certificate would have to stand alone or whether it could rely on documents submitted as part of the corresponding DCO application.</p> <p><b>PINS</b> confirmed that s127 applications are dealt with in parallel with the examination of the application for the DCO. Cross-referencing and sign-posting to documents in the DCO application would therefore seem preferable to duplication.</p> <p><b>Other Matters</b></p> <p><b>PINS</b> encouraged RWE to submit actual NE consultation responses alongside their Habitats Regulations screening assessment of no significant effects. While there is no obligation to provide this, it helps PINS in verifying the consultation report. PINS can request all consultation responses received if they consider it necessary.</p>
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<b>Specific decisions/ follow up required?</b>	<p>RWE to provide list of LA contacts</p> <p>RWE to provide GIS shape file of order limits</p> <p>PINS to advise on if/how applicant name change could be accommodated post submission</p> <p>PINS to advice on article 37 &amp; proposed protective provisions</p>
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<b>Circulation List</b>	Attendees

## Follow up advice from meeting on 3 October

**From:** Simone Wilding  
**Sent:** Friday, October 19, 2012 11:59 AM  
**To:** Hugh.Morris Adriana.Gasparini Karen Howard  
**Cc:** Helen Burley MatthewTrigg DavidTate  
**Subject:** Follow up advice from meeting on 3 October

Hugh/Adriana/Karen,

Following on from our meeting on 3 October, I can provide you with advice on the questions we took away from the meeting:

We have no comment on Article 37. However, Article 2 - Interpretation, should include a definition of "address" and "electronic transmission" -see Ipswich and Doncaster DCOs on website for examples. (Link to Doncaster DCO: [http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/TR040001/3.%20Post%20Decision%20Information/Development%20Consent%20Order/121016\\_TR040001\\_The%20Development%20Consent%20Order.pdf](http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/TR040001/3.%20Post%20Decision%20Information/Development%20Consent%20Order/121016_TR040001_The%20Development%20Consent%20Order.pdf), Link to Ipswich DCO: [http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/TR040001/3.%20Post%20Decision%20Information/Development%20Consent%20Order/121016\\_TR040001\\_The%20Development%20Consent%20Order.pdf](http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/TR040001/3.%20Post%20Decision%20Information/Development%20Consent%20Order/121016_TR040001_The%20Development%20Consent%20Order.pdf)).

### Protective Provisions

As part of the examination of the draft DCO (if accepted for examination) the statutory undertakers will have an opportunity to make representations on these provisions. The Examining Authority will wish to know if agreement has been reached with the statutory undertakers on their content. It is considered advisable therefore that negotiations with the undertakers continue in order to agree a final wording of these provisions in advance of any examination.

### Change of company name

We suggest that the words "or any successor body" are added to the definition of "undertaker" in Article 2 - Interpretation. If the company registration number remains the same then the applicant can provide an explanation and request an amendment to the draft DCO during the examination to include the new name. It will be important that clarity is provided to the Examining Authority and the interested parties as to the reason for and the nature of the change (particularly if as a result of restructuring a different legal entity is to become the undertaker). It is likely that the Examining Authority will wish to know how this will affect any liability to make compensation payments and may request additional evidence on funding capabilities. It is not possible to be more precise than this without knowing what the nature of the change will be and when it is to take place. You will need to take your own legal advice when these factors become known and make the appropriate submissions to the Examining Authority, together with any necessary changes to the draft DCO to reflect the changes.

Modern drafting

As mentioned at the meeting, it is advisable to look at the Ipswich and Doncaster DCOs (see above) and make appropriate changes e.g. "must" not "shall"; "do not apply" not "shall not apply"; "without limitation on the scope of paragraph x" not "without prejudice to the generality of paragraph x" .

We have some further comments on the draft DCO but have not been able to finalise these. We're hoping though to be able to provide you these by the middle/end of next week.

Kind regards

Simone

Simone Wilding  
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Web: [www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate) (Planning Inspectorate casework and appeals)

Web: [www.planningportal.gov.uk/infrastructure](http://www.planningportal.gov.uk/infrastructure) (Planning Inspectorate's National Infrastructure Planning portal)

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our [Information Charter](#) which you should view before sending information to the Planning Inspectorate .