



Meeting note

Status	Final
Author	Hannah Pratt
Date	13 March 2015
Meeting with	Environment Agency
Venue	Via teleconference
Attendees	Planning Inspectorate Frances Russell (EIA Manager) Tom Carpen (Infrastructure Planning Lead) Hannah Pratt (Senior EIA and Land Rights Advisor) Environment Agency Sally Holloway Carol Bolt Andrew Mozley
Meeting objectives	Liaison meeting between the Planning Inspectorate and the Environment Agency
Circulation	All

1. Progress on the update to the annex in Advice Note 11 (Annex D)

The Environment Agency (EA) confirmed that they are updating Annex D to the Planning Inspectorate Advice note eleven: Working with public bodies in the infrastructure planning process. The EA anticipates that the revisions will include details on the information they consider should be included within Development Consent Order (DCO) applications in relation to the Water Framework Directive and climate change. It will also provide advice on the timings of environmental permits and the implications of not parallel tracking an environmental permit application with a DCO application.

2. Timing of applications for environmental permits

Both parties noted that there is a lack of appetite amongst developers to submit an environmental permit before a DCO application is made. The Planning Inspectorate expressed concern over this approach, specifically where there are Habitats Regulations issues, and noted that the National Policy Statement states that a DCO should not be granted if a project is not permissible. They explained that examining authorities for NSIPs are inquisitorial and therefore are likely to question the EA on the likelihood of a NSIP gaining an environmental permit.

The EA explained that during a NSIP examination, they will be clear as to whether they can or cannot comment upon on aspects of environmental permitting. The EA will state whether or not, in principle, the project is capable of being permitted. The EA

explained that, should an applicant not submit an environmental permit application either before or in parallel to a DCO application, the applicant should be made aware that as a consequence the Environment Agency may not be able to provide useful comments during an examination. The revised Annex D will encourage developers to submit a permit application in good time.

The Planning Inspectorate agreed to continue discussing environmental permitting issues with applicants during the pre-application stage and to seek details as to why an applicant is not applying for an environmental permit at an early stage, for further discussion with the EA.

3. Expectations of the Environment Agency in relation to timings on written reps, written questions and statements of common ground

The EA raised concerns over the practicalities of responding to separate queries and documents to the same deadline in examinations. For example, producing a written representation, responding to written questions and producing statements of common ground (SoCG) within one deadline. The EA considered that the expectations on them to deliver is high and explained that they do not always feel they are at the stage to produce certain documents (e.g. SoCGs) by some deadlines set out in examination timetables. The EA explained that they may not always be able to meet deadlines which are not linked to legislation.

The Planning Inspectorate acknowledged this and explained that it is still useful to have SoCGs produced in draft form even if disagreement between the parties remains. This could simply be an indication of agreement or disagreement and does not necessitate a technical conversation.

The level of detail of SoCGs received post-acceptance varies across projects and the Planning Inspectorate advised that it is working with the Department for Communities and Local Government on guidance for their production. The EA stated that they would include some text in their Annex to advice note eleven setting out their expectations in terms of the data and quality for SoCGs.

Post meeting note: Revised DCLG guidance on Examinations includes guidance on SoCGs -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418015/examinations_guidance-final_for_publication.pdf

4. Section 42 consultations

The EA explained that they have been undertaking cost recovery for discretionary advice they have given since April 2014. They do not charge for section 42 consultation as this is a statutory role, however the EA explained that they are looking to define this consultation period for cost recovery purposes.

5. Good example documents

The Planning Inspectorate encouraged the EA to identify any good example documents for publication on the National Infrastructure Planning webpage.