



Meeting Note

Status	Final
Author	Siân Evans

Meeting with	Network Rail (NR)
Meeting date	12 February 2013
Attendees (Planning Inspectorate)	Kathrine Haddrell - Senior Case Manager Katherine Chapman - Case Manager Siân Evans - Case Officer Tim Hallam – Legal Manager (National Infrastructure) Andy Luke – EIA and Land Rights Manager
Attendees (non Planning Inspectorate)	Colin Murphy – Ipswich Chord Project Manager Malcolm Armstrong – Norton Bridge Project Manager Alex Davies – Environment Manager Peter Munz – Head of Consents Henry Long - Lawyer Gemma Groves - Lawyer
Location	Planning Inspectorate Offices, Temple Quay House, Bristol

Meeting purpose	Lessons learnt from Network Rail NSIP applications
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Summary of key points discussed and advice given	<p>The Planning Inspectorate advised on its openness policy and referred to s.51 of the Planning Act 2008 (PA2008) and noted that any advice given under s.51 does not constitute legal advice on which applicants or others can rely.</p> <p>The remit of the meeting was set out, which was to discuss lessons learnt from the four applications that have been submitted by Network Rail (NR), drawing on the aspects which were found to be most helpful for the public, Examining Inspectors, the case team and Network Rail and those that would benefit from further work. A similar meeting has been held with National Grid since they were another body that submit multiple applications for development consent. The following issues were discussed:</p> <p>Consultation NR stated that the legal requirement for consultation was very onerous and if a party is identified late in the process further consultation was required which can delay applications.</p> <p>The Planning Inspectorate advised that in order to comply with s.42(d) of the PA2008 applicants have to make diligent inquiry to identify relevant persons who should be consulted. If, for example, the owner of a plot of land can</p>
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not be identified then that should be noted in the consultation report and information provided to evidence what steps have been taken by way of diligent inquiry to identify such persons.

The Planning Inspectorate advised that an applicant can, in certain circumstances, decide not to consult a particular person but they should explain and justify why in the consultation report.

The Planning Inspectorate advised that the consultation report can be sent to Local Authorities prior to application submission. This can result in a quicker s.55 decision as the Local Authority may be able to provide their Adequacy of Consultation response sooner.

Application documents

NR were frustrated about the amount of documentation required to be submitted with an application. The Planning Inspectorate advised that 'navigation' documents have been submitted with other applications, which have been found to be helpful. The Planning Inspectorate also advised that applications should be proportionate but the applicant needs to be satisfied that the information submitted is adequate to enable it to be accepted and examined within the statutory time periods.

The Planning Inspectorate advised that if confidential information is submitted with an application it is helpful to verbally inform the Case Manager before or when the application is submitted so that they are not mistakenly published on the planning portal website.

NR stated that it was often difficult to keep to just one Statement of Community Consultation (SoCC). The Planning Inspectorate advised that it is acceptable, and has become common practice, to prepare more than one SoCC as it is an iterative process which allows applicants to refine and consult on their proposed project as it changes taking account of consultation responses.

The Planning Inspectorate would recommend that any change to a SoCC is consulted on with the local authorities, even if they are minor changes. An applicant would need to allow 28 days for consultation but it can take less time than this if they have built up a good working relationship with the local authorities. This should then be evidenced clearly in the Consultation Report with copies of the SoCCs, newspaper notices and correspondence with the Local Authorities being annexed to the Report.

The Planning Inspectorate advised that it is helpful for Statements of Common Ground to be provided early and that they can be with any party. They can also cover uncommon

ground and do not have to be lengthy documents. There is no reason why these cannot be submitted with the application documents if NR wish, indeed the Planning Inspectorate would encourage this.

Duty to consult

NR asked whether they need to consult on all application documents. The Planning Inspectorate advised that some applicants do send all their documents out to all consultees but they can tailor which documents are sent to which parties if they wish. The Planning Inspectorate advised that if this is done it is helpful to explain what has been provided to whom and why. It is often best practice to only send relevant information to particular parties and it can be helpful to send the equivalent of a non-technical summary to members of the public in relation to an application.

Environmental processes

NR commented that preparing the Environmental Statement, where an application is EIA development was very onerous due to the necessity to duplicate documents.

NR stated that there was a seeming reluctance to scope out environmental topics that would generally not be relevant to rail schemes. The Planning Inspectorate advised that an appropriate level of evidence was required to justify why something should not be assessed. The Planning Inspectorate does seek to ensure that the Environmental Statement is proportionate to the scale of the scheme and its likely impacts and this can be discussed during the pre-application process.

The Planning Inspectorate advised that it is helpful for draft documents to be submitted for comment to the Planning Inspectorate at the pre-application stage, however draft Environmental Statements are not reviewed.

NR stated that responding to questions from the Examining Authority (ExA) and Interested Parties often involved repeating information that had already been supplied in the Environmental Statement. The Planning Inspectorate advised that if applicants wanted quicker examinations the ExA was likely to ask more written questions to resolve queries with fewer hearings. Many questions asked by ExAs are similar on different schemes so NR can look at the questions asked in other examinations and, where relevant, provide that information in their application.

Examination hearings

NR stated that members of the public had raised issues at a hearing which had not been raised earlier in the process. The Planning Inspectorate stated that it was important for the public to have their say and that this is an important part of the process. The Planning Inspectorate also referred NR to

Rule 14(4) of the Examination Procedure Rules which states that persons are not precluded from referring to issues in oral representations at hearings even if they have not been included in their relevant or written representations and have not been identified by the ExA as issues at the start of the hearing.

The Planning Inspectorate advised that the ExA has the power to limit how long Interested Parties speak and can refuse to hear the same point being made repeatedly by different people.

The Planning Inspectorate also noted that they advise the public and statutory parties to engage with the applicant sufficiently early at pre-application stage.

The location of hearings was raised by NR. The Planning Inspectorate advised that when choosing a venue the location should be accessible to the local community generally including persons with a disability.

Changes to the Development Consent Order (DCO)

NR advised that they had experienced some problems with changes being made to a DCO by the Secretary of State (SoS) on the recommendation of the ExA. The Planning Inspectorate advised that anything recommended by the ExA should have been discussed during the examination. The Planning Inspectorate also noted that the SoS has the power to make a DCO in different terms from that applied for. Once the ExA's recommendation report has been sent to the SoS, NR should raise any issues directly with the SoS.

Discharge of Requirements

NR stated that there can be delays in Local Authorities discharging requirements. The Planning Inspectorate advised that if, for example, more details were to be provided in the DCO rather than being dealt with pursuant to requirements then they will not be so reliant on post consent discharge of requirements by Local Authorities. In any event, it would be helpful if applicants could work closely with Local Authorities in seeking to agree the wording of draft requirements at the pre-application stage and encourage them to attend hearings to enable requirements to be discussed during examinations.

Planning Inspectorate observations

With regard to recent applications the Planning Inspectorate advised that it is important that all documents that are intended to be submitted are present in electronic and paper copies when an application is submitted. There is limited opportunity to provide documents after an application has been submitted. The Secretary of State has a deadline of 28 days to decide whether or not to accept an application therefore it is important that there are no delays caused by the Planning Inspectorate having to search for documents. A

	<p>navigation document can be useful.</p> <p>It is important that the Consultation Report is set out clearly and helpful if the evidence for all consultation is presented consistently. The Consultation Report should set out what was done by the applicant, when and why, what was said by consultees, how the developer responded and what changes if any were made to the application in response. Where changes to a proposed application have been made in response to comments made by consultees then the Consultation Report should provide evidence for such iterative changes to a scheme.</p> <p>The Planning Inspectorate advised that at least 28 days should be allowed for all stages of consultation and that if different bodies are consulted at different stages it is helpful to note and set out the reasons for this in the Consultation Report.</p> <p>The Planning Inspectorate also reminded NR of the importance of paying fees on time.</p>
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Specific decisions/ follow up required?	
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Circulation List	All attendees