



Meeting note

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| File reference | TR010014 |
| Status | Final |
| Author | Michael Baker |
| Date | 26 June 2013 |
| Meeting with | Highways Agency |
| Venue | Planning Inspectorate, Temple Quay House |
| Attendees | Mark Wilson (Principal Case Manager) Kay Sully (Case Manager) Michael Baker (Case Manager) Frances Russell (EIA and Land Rights Advisor) Lesley Mahon (Highways Agency) David Hinde (Highways Agency) Andy Thompson (Jacobs) |
| Meeting objectives | Follow up meeting to that held on 14 March 2013 to discuss lessons learned and practices going forward. |
| Circulation | As above |

Summary of key points discussed and advice given:

The Planning Inspectorate explained that it could give advice under s.51 Planning Act 2008 (as amended); a note of the meeting would be taken and any advice would be published on the website and that any advice issued under s51 would not constitute legal advice upon which the developer could rely.

The Highways Agency explained that the Development Consent Order (DCO) process captured schemes that they had not previously anticipated to be Nationally Significant Infrastructure Projects (NSIP). The Planning Inspectorate advised that The Highway and Railway (Nationally Significant Infrastructure Project) Order 2013 is due to come into force in July 2013 and that this should reduce the size, significance and number of highway and railway projects that are considered to be NSIPs.

The Highways Agency enquired about the lessons learned so far in terms of where efficiencies can be made and where burdens in the process exist. PINS advised that pre application consultation should be proportionate to the size and complexity of the project. Applicants should "tell the story" of how the project has evolved in their Consultation Report. This should include an account of what strategic or early options were considered and any previous incarnations of the scheme. It would also be useful to note in the Consultation Report any instances where road schemes have been included in Local Plans or Core Strategies in the past, including any consultation that took place in relation to the production of those documents. Care should be taken to avoid structuring pre application consultation in such a way that key decisions about the scheme are deliberately taken outside of the formal consultation process under

the PA2008. However, it is understood that many projects will be notified to PINS after strategic options have been considered. In those circumstances it is important that any early optioneering decisions are clearly justified with evidence.

The Planning Inspectorate advised that efficiencies can be achieved in the acceptance period by signposting documents and making the location of vital elements of the application very clear. Efficiencies may also be achieved by programming projects and their examination as much as possible to avoid public holidays and other times of reduced resource availability. The Highways Agency enquired whether they could be pre-warned about the release of new guidance. It was advised that the Highways Agency should raise this issue with DCLG who produce the guidance which underpins the PA2008 regime. PINS case officers working on specific projects will try to alert applicants to any new and relevant Advice Notes which we issue.

On the issue of early engagement, the PINS advised that applicants should engage with the Planning Inspectorate as early as possible, particularly in providing draft documents for comments. In response to concerns raised by the Highways Agency about the publication of draft documents by the Planning Inspectorate, it was advised that only the advice given is published. It was emphasised that the provision of draft documents is an essential step in ensuring efficiency in so far as catching significant issues before they arise later in the process. It was also advised that the usual 6 week period for draft documents to be provided before the application is submitted is a guide only and designed to give the applicants an opportunity to implement changes subject to advice. Alongside this, the Planning Inspectorate would expect a shapefile of the proposed DCO boundary to be submitted at least two weeks before the application.

The Highways Agency enquired about the level of detail necessary for applications. It was advised that duplication has been observed, particularly in relation to the provision of required assessments (such as flood risk assessments) both in the ES and separately. These assessments can be referred to rather than duplicated in the ES, if the applicant wishes. (In this regard, attention is drawn to paragraphs 36 and 37 recent guidance issued by DCLG: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/204425/Planning_Act_2008_-_application_form_guidance.pdf) In answer to an enquiry about how much regard should be given to the responses of statutory consultees about the content and extent of assessment, it was advised that the Planning Inspectorate would expect the applicant to engage directly with statutory consultees and, where possible, to agree approaches with them.

On the point of scoping out issues in the ES, the Planning Inspectorate advised that any issues an applicant would like to scope out should be evidenced and supported by comments from statutory consultees. It was advised that this will be considered on a case by case basis.

The Highways Agency raised the possibility of staged approval. The Planning Inspectorate replied that this would not be possible, as the stages of the process are set out in legislation. In response to an enquiry about early notification to the Highways Agency of decisions made, the Planning Inspectorate advised that this would not be possible as no favour can be shown to an applicant above other parties.

The Highways Agency enquired whether templates could be used across their expected applications. The Planning Inspectorate advised that as application documents have to justify the granting of legal powers and compulsory acquisition of

land, they should be carefully considered and suited to the scheme. Any internal process of the Highways Agency in templating documents is a matter for their consideration. However, PINS has no objection in principle to the HA developing a set of template documents if they are used sensibly.

The Highways Agency enquired about Preliminary Environmental Information (PEI) and whether the scoping report could be used as PEI. The Planning Inspectorate advised that the purpose of PEI was to provide appropriate information to consultees during pre-application consultation, and that there is no prescribed form that this should be presented in. In terms of the scoping report, applicants should consider that this document, which often contains information about proposed methodologies rather than environmental information, may not provide sufficient information for consultees to make comments about the scheme.

The Highways Agency enquired about the role of the Design Manual for Roads and Bridges and the associated Interim Advice Notes in the forming of the Environmental Statement (ES). The Planning Inspectorate advised that applicants should produce the ES in line with any relevant guidance; if responses were received from statutory consultees requesting further information, then it would be expected that this should be included.

The Highways Agency enquired about the process of the appointment of Examining Inspectors. It was explained that the National Infrastructure Group Manager appoints Examining Inspector(s) based on availability and suitability of the Inspector. A judgement is made by the Group Manager between the appointment of a panel versus a single inspector based on the size, complexity and interest in the scheme.

The Highways Agency enquired about how the user charging would be considered in the DCO process, and whether any distinction would be made between user charging and non-user charging schemes. The Planning Inspectorate advised that there is no set distinction concerning about what could be included in a DCO in terms of user charging, but that it is an issue that may be raised in examination and that should be consulted upon prior to submission. User charging may give rise to particular issues which may influence the findings of the environmental impact assessment.

The Highways Agency enquired about the approach to considering separate NSIP applications whose redline boundaries may cross each other. PINS advised that this is a situation that should be avoided through pre-application consultations and that the use of Statements of Common Ground (SOCG) could remedy concerns. Where a statutory undertaker is attempting to acquire the land of another statutory undertaker, s127 procedures are engaged and in this case the Examining Authority will recommend to the relevant Secretary of State whether or not the acquisition should be granted.

The Highways Agency enquired how changes in their programme of works may affect the consideration of a scheme if such changes affect a project during its examination. The Planning Inspectorate advised that the Examining Authority will judge the materiality of changes to the project that they are examining on a case by case basis. The application before the Examining Authority should be the same as the application that was consulted upon.

The Highways Agency explained that for some projects a design "fix" may be used in the assessment and design of schemes, in so far as not changing the application and its supporting assessments in light of emerging guidance and practice. PINS advised

that applicants should be forthcoming with any significant changes to information and that the principles of emerging information and policy in examination should be similar to those that the Highways Agency has experienced in other public inquiries.

In response to an enquiry about the possibility of reducing the number of statutory consultees, the Planning Inspectorate advised that this was a matter of legislation therefore DCLG should be approached to rationalise this list. In terms of the requirement to consult Part 1 claimants, it was advised that this is a matter for an applicant's judgement and that clarification should be sought from an applicant's legal team concerning the extent of this requirement. The Highways Agency enquired whether PINS could review their internal guidance; the Planning Inspectorate advised that this may be possible, but only from a process perspective.

It was agreed that a further meeting where HA and PINS could explore the lessons learned from the first HA project and the implementation of the new NSIP thresholds.



The Planning
Inspectorate