



The Planning
Inspectorate

Meeting note

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Author	Zena Madden
Date	9 December 2014
Meeting with	Highways Agency
Venue	Meeting room 3/03, Temple Quay House
Attendees	<ul style="list-style-type: none">• Anna Pickering - Highways Agency• Lesley Mahon – Highways Agency• Susannah Guest - The Planning Inspectorate• Kay Sully - The Planning Inspectorate• Zena Madden - The Planning Inspectorate• Sarah Green (Legal) -The Planning Inspectorate• Will Spencer (EST) - The Planning Inspectorate
Meeting objectives	To reflect on the A556 Knutsford to Bowdon Development Consent Order application process
Circulation	As above

Summary of key points discussed and advice given:

Pre-Application

The Highways Agency (HA) outlined their approach to working with the new Planning Act 2008 regime for Nationally Significant Infrastructure Projects (NSIP). They noted the guidance available and research undertaken at the time they were preparing for the A556 Knutsford to Bowdon Scheme to be submitted. This was the first Highways Agency NSIP application to be prepared and submitted and there was some uncertainty about what The Planning Inspectorate (PINS) would want and need to know about the project and subsequent application. It was agreed by both parties that at that point in time, PINS could have appeared to be rather reactive and focused on dates rather than details of the scheme/application.

At that time the PINS Pre-Application Service Prospectus had not been written. Reflecting on its value for current and forthcoming projects, HA felt that the Prospectus was very informative and that the Pre-Application advice on more recent schemes had been of a higher standard. The HA did stress the importance of consistency in the delivery of the PINS Pre-Application Service; some of the HA experiences had been mixed and this had created uncertainties.

The HA reflected that on the A556 Knutsford scheme, more Pre-Application engagement from PINS could have resulted in a better appreciation of what to expect from the Examination stage and allowed them to focus work and resources accordingly.

Scoping Requests and s53 land requests

The discussion noted the role and value of seeking a Scoping Opinion from PINS. PINS highlighted that there was a balance to be struck in the evolution of a project between the timing of a request for a scoping opinion and the value it could add. In general, PINS' experience is that the more detailed information about a scheme that is provided, the more this enables a detailed response from statutory consultees and a fuller opinion being issued. A more detailed scheme description could lead to a greater understanding of the potential significant effects of the proposed development, thereby helping to refine the impacts which should be assessed in the ES (possibly meaning that some impacts can be scoped out and therefore saving on the work required). A more detailed scheme description also helps PINS gather early information about a potential future application.

In relation to s53 Rights of Entry, HA advised that entry on to land by agreement for the purposes of surveying, taking levels and to inform the Environmental Impact Assessment and Habitats Directives (where this cannot be achieved by using Highways Act 1980 powers) can be difficult to achieve early on in the process. Until there is a certain level of detail available about the impact of the scheme and HA can explain mitigation and compensation to those whose land they eventually will be entering, some land owners are reluctant to allow access. PINS explained that issues associated with not being able to access land for surveys could be addressed in the Environmental Statement (ES), for example by undertaking the assessment based on a defined set of 'worst case' assumptions and proposing mitigation/monitoring where potential significant adverse effects are identified. The likely effectiveness of any such measures in preventing, reducing or off-setting potential significant adverse effects should be supported with evidence.

Compulsory Acquisition

PINS had asked schemes including A556 and other HA schemes how negotiations with landowners were proceeding during the Pre-Application and Examination periods and HA felt this gave the impression that negotiations should be concluded prior to the application being submitted. HA explained their approach to engagement, including discussions with land interests on matters other than negotiating compensation terms. They also explained that negotiations on compensation matters were – except in special cases – undertaken after entry by their valuers. In most cases HA believed it was neither possible nor desirable to undertake these negotiations prior to development

consent being obtained. For CA purposes, it is often not possible to assess the impact of the scheme until it has been constructed.

PINS noted the distinction between 'engagement' and 'negotiation' and agreed that they were looking for HA to adequately engage with landowners during the Pre-application stage particularly as engaging early in the process may lead to mitigation, accommodation works etc being agreed and to alternatives to full compulsory acquisition of land outright being explored. PINS agreed to consider this issue of their expectations of engagement and negotiation and respond to HA.

Environmental Impact Assessment and Habitats Regulations Assessment

The discussion turned to flexibility and the use of a Rochdale Envelope approach to the description of the development and the drafting of the Development Consent Order (DCO). PINS described the issues experienced during the Examination due to the ES not clearly describing the development parameters that were used in the Environmental Impact Assessment (EIA). PINS stressed that the ES should clearly describe how the development proposed to be authorised through the DCO falls within the parameters assessed in the ES. The ES should always assess the potential worst case environmental effects within these parameters.

HA felt that the DCO left little opportunity to implement value management and other opportunities identified post-Examination due to the requirement to stay within the redline boundary and set parameters. PINS were keen to stress the role of DCO requirements in considering how to address uncertainty and flexibility, e.g. post-Examination value management and continuing discussions with other parties, and so were supportive of their use when written in accordance with their Advice Note 15 on drafting DCOs. In these instances, it was vital that the worst-case scenario would need to be assessed in the ES.

PINS explained the benefits of a table being submitted with applications that identified how the delivery of mitigation measures proposed and relied upon in the ES is secured through DCO requirements.

PINS noted the difficulties experienced due to the Habitats Regulation Assessment matrices submitted not being the final versions (as they were 'subject to a HA quality review') and because they were not in the format recommended in Advice Note 10.

Preparation of application documents

PINS recommended sharing information early with consultees, e.g. selected information going into the ES during Pre-Application, to seek to reduce the amount of issues left at Examination.

PINS welcomed minimising general preamble in written documents and advised that repetition should be avoided.

PINS would have welcomed a better understanding of project risk management, e.g. understanding HA's level of confidence in earthwork balance and how this related to their approach to the land-take proposed in application documents.

PINS noted that an Examining Authority and all parties appreciate clear "sign-posting" of the most useful information in the ES so as to reduce the amount of clarifying questions later.

PINS were unsure how ES figures marked "illustrative" fitted with being final application documents, and therefore how strongly they could be seen to reflect environmental assessment and DCO Limits of Deviation.

Pre-Examination

HA noted that the A556 Knutsford application was submitted before the school holidays and felt that the Examining Authority may have delayed timetabling the Preliminary Meeting (PM) in light of this. HA felt this had resulted in a long period before the process driven examination formally began.

HA suggested that more could be made of the PM to outline a protocol for behaviour in respect of the Examination, hearing sessions and what/when is it acceptable to hand documents to the Examining Authority.

Examination

The HA suggested that hearing agendas could usefully specify why points were being raised, as this would assist the HA in bringing the appropriate members of their team; this would then avoid booking costly witnesses who are not required or who can be difficult to book at short notice.

The HA commented that documents submitted before hearings could, at times, only be downloaded on the evening before the hearing; this did not allow adequate time for parties to review them. The HA also suggested that it could be helpful for an Examining Authority to set out any action points following a hearing and be clear about what is expected from whom and by when. HA reported that on occasion there was some lack of clarity about who was responsible for liaising with external suppliers, such as audio and venue booking. The venue providers often became confused with the internal booking process as they were liaising with both PINS and the HA.

HA noted the often very tight deadlines within the Examination timetable. PINS acknowledged that often applicants (and others) can find the timetable challenging and noted that the Examination must be completed within 6 months. PINS noted that the PM was the forum to raise any such timetabling points with the Examining Authority at an early stage but acknowledged this may not always be the case with amendments to timetables during examination.

Draft Documents

PINS noted that there was a lack of clarity in how the technical drawings related to the ES. PINS also advised HA to ensure that all baseline data for assessments was adequate and up to date. Where data was from previous years, e.g. traffic modelling, PINS would appreciate more information in the application arguing the applicant's confidence in the robustness of the data used and its continuing validity. In the case of the A556 Knutsford application, the RIES matrices were in an old format and had not been finalised. The HA asked if PINS could request the Construction Environmental Management Plan (CEMP) earlier rather than waiting. It was noted that applicants should seek to produce Statements of Common Ground as early as possible.

Website

HA explored the possibility of the Planning Portal website displaying documents by the date loaded and providing clearer descriptions of what documents were. HA also commented that the website could be clearer when a document had been amended to ensure that all parties were aware of the change/up-date. PINS confirmed that

improvements to the website were on-going; since the A556 Knutsford scheme had been submitted changes have been made to display the deadlines in the examination timetable, which deadline a document related to (with the user of hyperlinks) and the date a document was submitted.

Summary note of HA suggestions/observations for PINS

- A protocol for behaviour could be provided at the PM outlining what is expected of attendees, including members of the public. This could also cover what information/material it is acceptable to hand to the Examining Authority at the event itself.
- It would be a positive approach to having consistently detailed agendas available as far in advance as possible of a hearing that would also specify why points were being raised at each hearing.
- Could action points be published following a hearing which clearly set out what was requested, from whom and by when. Could the Examining Authority also clearly state whether requested information was a 'nice to have' document or 'necessary to examination'.
- PINS to work more closely with applicant during Pre-Application phase to understand the expectations and likely workloads of the Examination Stage to enable them to engage more effectively at the PM and to highlight potential problem areas/timetabling challenges.
- Should PINS always seek copies of consultation responses during acceptance, it would be helpful to manage expectations if this could

become a standard requirement as part of the application documents upon submission.

- It could be helpful if PINS/Examining Authority would request certain key documents earlier in the process if they are commonly held to be helpful documents, for example any mitigation tables, RIES matrices and a CEMP.
- When members of the project team change, ensure up-to-date contacts are notified to the applicant throughout the process to minimise confusion.
- Work to continue with website clarity and PINS to work to avoid spelling mistakes when entering details which subsequently make searching difficult.