



## Meeting note

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<b>Status</b>	<b>FINAL</b>
<b>Author</b>	Richard White
<b>Date</b>	6 July 2016
<b>Meeting with</b>	Highways England
<b>Venue</b>	Temple Quay House, Bristol
<b>Attendees</b>	Susannah Guest – The Planning Inspectorate (Chair) Chris White – The Planning Inspectorate David Price – The Planning Inspectorate Noreen Sutton – The Planning Inspectorate (Government legal department) Richard White – The Planning Inspectorate  Martin Clarke – Highways England John Rowland – Highways England Robbie Owen - Pinsent Masons
<b>Meeting objectives</b>	A14 feedback meeting
<b>Circulation</b>	All attendees

### Summary of key points discussed and advice given:

#### Pre-application stage

Highways England (HE) commented that they found the pre-application stage generally good and felt able to access advice, however they noted that there may have been benefits to the process had there been greater continuity of Inspectorate staff through the process. HE noted the benefits in particular, with having Inspectorate staff that were involved in pre-application also involved with the examination.

HE explained some of the time pressures that occur during the preparation of an application and noted that some workstreams can be difficult to fit in with this; for example, the draft documents review stage. The Inspectorate noted that a greater level of engagement with an applicant during the pre-application stage can facilitate a more timely review of draft documents and the outcome is heavily dependent on the quality of documents submitted at that stage. HE suggested that a draft document review could highlight positives as well as negatives in the documents.

HE considered it could be helpful for the Inspectorate to provide comments on other aspects of the application documents for example, the Flood Risk Assessment, as they noted that the Inspectorate tend to focus on land and property issues at draft document and acceptances stages. The Inspectorate noted that they do not have the available resource to provide detailed review of the Environmental Statement at the draft document stage. The Inspectorate highlighted that Section 51 advice is a very useful way for applicants to highlight and address issues with the Planning Inspectorate at the pre-application stage aspects of detail within the application.

HE noted their learning through the process and in particular explained that they could have been more open with Local Authorities and key stakeholders during the pre-application stage in sharing draft information - there is an understandable concern at sharing draft documents that are incomplete or may contain errors. However, HE accepted that they need to strike a more appropriate balance so they hoped on future schemes to share information earlier with key stakeholders where appropriate. HE also suggested that lack of knowledge of the process may have hindered some of the early engagement work with Local Authorities and landowners. HE considered that the outreach that the Inspectorate used to do helped play a role in getting affected people to engage at an early stage as well as helping bodies such as local authorities be engage earlier; they noted that time appeared to have been spent during hearing sessions to achieve this which might have been avoided with some earlier engagement from the Inspectorate.

The Inspectorate noted that there seemed to be some issues dealt with at the examination stage that could have been more usefully resolved at the pre-application stage, particularly with regard to the Environment Agency, local highways authorities and drainage boards concerns. The Inspectorate suggested that Statements of Common Ground (SoCG) could have been helpful, however HE had not produced them for submission stage. HE noted they were partly reticent to share unfinished information during this stage.

The Inspectorate raised the need to get protective provisions discussed or agreed as early as possible at pre-application stage. HE noted that they had no knowledge that CLH Pipelines were going to request a protective provision until the examination had closed.

### **Acceptance stage**

The Inspectorate noted that there was a slight lack of clarity where changes had been made to the design of the viaduct pre-application and it was difficult to relate the assessment in the Environmental Statement with the consultation report on this issue.

HE noted that they had achieved their anticipated submission date of New Year's Eve and noted that this date was very closely connected to their post-decision construction period (start of works date). The Inspectorate queried whether if the application submission had been delayed to allow more work to be completed, whether a number of the subsequent changes could have been avoided. HE did not consider that delaying submission would have had such an effect and noted that parties can sometimes be reticent to fully engage in a process of land negotiations until such time as the formal process commences.

HE added that for a scheme as big and complex as A14, the number of changes submitted to the Inspectorate during the examination was not considered to be necessarily unreasonably high. HE considered that if they had taken more time in preparing the application this could have a negative impact on key stakeholders who wanted clarity about the project and the process.

### **Pre-examination stage**

HE said that the request to provide SoCGs with Parish councils came as a surprise, and queried the value of these documents. They noted that the process of preparing the SoCG could be, at times, a distraction to the significant workload of an active examination. The Inspectorate pointed out that SoCGs work really well for certain parties but maybe not for those not used to them. The Inspectorate explained that the default position of ExAs tends to be towards SoCGs and HE suggested that a blanket approach to them being produced with certain parties may not be necessary. Going forward HE will consider with the Inspectorate whether a more appropriate form of summarising issues could be used in lieu of SoCGs.

### **Examination stage**

In terms of the examination timetable, HE queried whether it would be more helpful to have separate deadlines for the applicant and for other parties. HE felt some frustration in the cross-over of material due to standardised deadline and suggested sequential deadlines could have made for more efficient exchange of information. They pointed out that the scale of the scheme didn't help in this regard and noted they had encountered difficulties in trying to make the different workstreams consistent with each other. HE reiterated that a lot of resource went into SoCGs rather than other engagement with stakeholders.

HE believed the Preliminary Meeting had gone well and achieved its stated aims and that the hearings had been well-timed within the six-month timetable. HE did comment that the DCO Hearing had become quite far ranging in the topics discussed and considerable time had been spent on drafting matters relating to public understanding rather than delivering a technically sound DCO. HE noted that time was also spent during the DCO hearing for the applicant to run thorough and explain each article. The Inspectorate noted that a thorough Explanatory Memorandum that explains and justifies the inclusion of each article might avoid the need to verbally repeat information at the hearing; HE considered that the Explanatory Memorandum submitted did explain and justify the inclusion of each article. HE felt that on some occasions it felt like the ExA were perhaps encouraging parties to change their position on certain points.

In terms of the Open Floor Hearing, HE suggested that the ExA could be clearer about their expectations of the role of the applicant at such events as ultimately HE over-resourced these hearings. HE made the point that the hard copy documents provided by the applicant at all the hearings were barely looked at. The Inspectorate pointed out that having to provide hard copies of all documentation at hearings isn't being encouraged any more, and suggested that in future, the applicant has a laptop available for anyone who requests to view documents.

HE made the suggestion that ExA questions could be thoroughly edited and questions on similar topics could be grouped together. The Inspectorate said the early appointment of ExAs in the future should help with this.

The Inspectorate noted that there were some concerns with the number and timings of change requests, and inaccuracies with these regarding plots. HE pointed out that although 88 change requests were submitted in total, these were presented in a series of five documents (EX/63 (PINS Ref: REP4-025); EX/68 (PINS Ref: REP5-030); EX/99 (PINS Ref: REP7-034); EX/131 (PINS Ref: REP9-006); EX/163 (PINS Ref: REP10-047); and EX/247 (PINS Ref: REP14-024)), each of which made clear which, if any, of the change requests had been revised or withdrawn. Of these 88 change requests, only five needed to be revised (namely the 5 NMCs originally presented in EX/99, which were then revised and re-presented in EX/131, specifically DR1.08 Rev A and DR1.20b Rev A - DR1.20e Rev A) and two were withdrawn (namely 2 NMCs - DR1.79 and DR1.102, which were originally presented in EX/99 and EX/131 respectively, but which were withdrawn in EX/163). As regards 'inaccuracies' 'regarding plots', HE took the opportunity to update land referencing in relation to 5 changes largely as a result of further enquiries made in connection with obtaining land interest consents (to secure changes requiring additional land or 'upgraded' land use powers), but such updates (to change requests DR1.102; DR1.108 Rev A; DR1.21; DR1.20b Rev A; and DR1.20e Rev A) did not affect the substances of the changes requested. HE said that they felt that the ExA were confused by the amount of changes, but that ultimately clarity was achieved through HE's submission, at the ExA's request, of a consolidated change requests report (EX/163).

HE confirmed that after these 5 revisions and 2 withdrawals, there remained a total of 81 change requests, 71 of which were accepted by the ExA during the Examination. The remaining 10 change requests, all of which were presented in EX/247, concerned changes to flood compensation areas and arose as a direct consequence of HE having received updated flood risk assessment modelling from the Environment Agency (EA). The ExA did not accept these 10 change requests on the basis that they were presented too close to the end of the Examination; however the Department for Transport accepted all 10 change requests upon making the Order.

The Inspectorate pointed out that change requests absorb an ExA's time during an active examination and encouraged HE to seek pre-examination agreements with landowners where possible. HE had some further information on the details of the change requests which they agreed to share with the Inspectorate; in summary, this further information considered the reasons for the various change requests, which broke down as follows:

- 9 changes (11% of the total 81) were utility diversions requested by statutory undertakers;
- 21 changes (26%) were to soil storage areas or flood compensation areas arising as a result of discussions with the EA and updated modelling;
- 4 changes (5%) were requested for or by a local authority;
- 26 changes (32%) were requested by or for landowners (and comprised a mixture of new or revised accesses, shared accesses and changes to the CA powers sought over land, generally downgrading from acquisition to rights or temporary possession);
- 21 changes (26%) were proposed by HE, of which 10 (12.3%) were to accommodate the evolving scheme design; 6 (7.4%) were a result of further

ecological surveys and on-going dialogue with Natural England; and 5 (6.2%) arose from a landscaping review, carried out at the invitation of the ExA in response to objections regarding the amount of land proposed to be acquired for landscaping.

HE noted that the difficulties during examination agreeing a consistent approach with the Environment Agency particularly with regard to flooding, and the Flood Risk Assessment. The ExA made several attempts (through questioning) to encourage resolution between the parties and this was a resource intensive period for all concerned. In hindsight, HE reflected that their own technical team should probably have flagged up at pre-application and in a more specific manner the detail in background to this concern, most notably the availability of updated hydrological modelling data from EA. HE said, with regard to CA negotiations, the second Written Questions Annex A was not easy to use. The Inspectorate said that this document (CA table) was something applicants would be expected to use in future.

### **Recommendation/ Decision**

HE highlighted the issue with CLH Pipelines and said that it would have helped if DfT had issued a letter to IPs regarding this and other outstanding matters, largely relating to the IDB and to Network Rail, with a deadline for a response. As it was, no consultation was carried out. HE questioned the appropriateness and need for the ExA's DCO being produced, as the same information could have been put in a letter, which would have avoided the need to put it into the standard DCO template which caused formatting problems. The Inspectorate noted that practice is now to not produce an ExA's DCO if it is not necessary, with the ExA's changes just summarised in a document/table. HE queried whether it might be more helpful if the applicant could comment on the final draft of the Order (from the Secretary of State), rather than it being made on the final day, as the applicant knows it's DCO far better than anybody else. HE noted the number of other DCOs that had been "Made" that were then subject to a correction order.

### **Other key issues**

With regard to Compulsory Acquisition and non-material changes, HE questioned whether the Inspectorate could make a template for the submission of information.