



Meeting note

File reference	EN070002 – York Potash Pipeline
Status	Draft
Author	Hannah Nelson
Date	23 May 2013
Meeting with	York Potash Limited and Natural England
Venue	Teleconference
Attendees	Planning Inspectorate (PINS) Tom Carpen (Principal Case Manager) Tim Hallam (Legal Manager) Laura Allen (Senior EIA Advisor) Hannah Nelson (EIA Advisor) York Potash Limited (YPL) Richard Hunt (Head of Planning) Paul Chester (Paul Chester & Associates) Natural England (NE) Des O'Halloran Deborah Hall Rachel Hoskin
Meeting objectives	Update on progress regarding the Habitat Regulations Assessment (HRA) and Environmental Impact Assessment for the proposed pipeline.
Circulation	All attendees

Summary of key points discussed and advice given:

Environmental Statement

YPL confirmed that the Environmental Statement (ES) that would be submitted with the pipeline Development Consent Order (DCO) application would describe the 'proposed development' as the proposed pipeline. The minehead, consent for which is being sought under a TCPA 1990 application to North York Moors National Park Authority (NYMNP), would be considered cumulatively in the ES. YPL confirmed that the description of the development within the ES would match that provided within the Habitats Regulation Assessment (HRA) Report and that the ES would include information produced in response to the Regulation 22 request in relation to the minehead planning application.

European Protected Species (EPS)

YPL confirmed that an EPS license from Natural England (NE) for Pipistrelle bats would be required in relation to the minehead planning application and would be sought at a later stage. PINS explained that if the application is accepted for examination, the Examining authority (ExA) will want to understand whether NE is satisfied that there is no impediment to the issue of any derogation licenses to allow the project to proceed. The ExA is likely to request this response from NE in the form of a 'Letter of Comfort' or alternatively it could be dealt with in a Statement of Common Ground between NE and the applicant. The ExA is also likely to request from the applicant copies of the draft or submitted protected species license application(s) and any supporting documents, if these are not provided with the DCO application. YPL confirmed that it did not anticipate the need for an EPS license from Natural England for great crested newts.

Sites of Special Scientific Interest (SSSI's)

PINS explained that the ES should clearly identify whether the proposed development is likely to damage a special interest feature of a SSSI, which would require consent under s.28 of the Wildlife and Countryside Act 1981 (as amended). YPL advised that consent for works on the North York Moors SSSI would be required. PINS reminded YPL that details of all consents being sought separately outside of the DCO process should be listed on the application form.

HRA

YPL confirmed that a 'No Likely Significant Effects' (No LSE) Report would be submitted with the pipeline application. NE commented that in their opinion there is insufficient data to support a No LSE Report and YPL should progress to AA. At present, this disagreement remains unresolved. YPL confirmed their understanding that NYMNPAs are progressing to AA in their assessment of effects of the TCPA minehead application on European Sites.

PINS explained that where the conclusion reached in the applicant's HRA Report or No LSE Report is not agreed with the relevant SNCB, in this case Natural England, the Secretary of State will need to understand whether this disagreement is on the grounds that insufficient information has been provided by the applicant or the interpretation of the information is not agreed. This should be clearly explained in the HRA Report or No LSE Report.

PINS advised that a record of all consultation with Natural England should be evidenced in the consultation report, and where appropriate, correspondence could also be appended to and referenced in the HRA Report or No LSE Report. PINS reiterated that the consultation report must demonstrate that YPL has had regard to the consultation responses from Natural England.

Mitigation in the HRA

PINS noted that mitigation in the form of construction techniques is identified in the draft HRA Report. YPL confirmed that they are in consultation with NE to agree construction working methods, but at present no agreement has been reached. NE reiterated that whilst they are keen to have a dialogue with YPL to gain agreement on

appropriate mitigation measures, this should not be done until agreement on the potential impacts is reached.

PINS stressed the importance of accurate cross-referencing between mitigation outlined within the HRA Report and the ES and how these would be secured within the requirements of the draft DCO. As the ExA will need to understand how such mitigation would be secured through the draft DCO, PINS suggested that the applicant produces a Table that is provided as part of the application, ideally appended to the ES and/or HRA Report, setting out the mitigation measures that would be required, and how these would be secured within the requirements of the draft DCO. YPL confirmed that the HRA Report would identify any mitigation which is proposed to be secured through a requirement in the DCO.

Statements of Common Ground

PINS explained that the benefit of parties entering into a Statement(s) of Common Ground (SoCG), ideally during the pre-application stage, is that it allows the ExA to understand what issues the parties have reached agreement on and which are outstanding at the point of acceptance, which will assist the ExA in identifying the preliminary issues to be addressed through the examination, if the application is accepted. PINS explained that where SoCG were not provided with the application, the ExA is likely to request these early during the examination timetable, if accepted.

Other Issues

NE asked that if a No LSE report was submitted by the applicant, would they be given the opportunity to comment on this during the acceptance stage. PINS confirmed that at the acceptance stage there is no input from statutory consultees, except with the relevant local authorities regarding the adequacy of consultation undertaken by the applicant.

YPL confirmed that the dewatering, other processing and port operations located at Teesside, which form part of the overall project, would not form part of the description of development within the pipeline DCO application, but would instead be subject to separate TCPA and DCO applications. PINS confirmed that it would still be necessary to consider these related proposed developments, and potentially other developments/proposed developments, within the cumulative and in combination assessments within the ES and HRA respectively, reflecting the available level of information known about these projects when these assessments are undertaken. PINS advised that YPL discuss, and agree where possible, with the appropriate consultees, including the Local Planning Authorities and NE, which projects should be and need not be included within the cumulative/in-combination assessments within the ES and the HRA, and if not included the reasons why. This agreement should be recorded within the ES and HRA Report, as should any relevant matters that are not agreed.

Specific decisions / follow up required?

NE and YPL to continue discussions regarding finalising a SoCG.