



## Meeting note

<b>Project name</b>	Portishead Branch Line - MetroWest Phase 1
<b>File reference</b>	TR040011
<b>Status</b>	<b>Final</b>
<b>Author</b>	The Planning Inspectorate
<b>Date</b>	Thursday 17 October 2019
<b>Meeting with</b>	North Somerset Council (NSC) / Network Rail
<b>Venue</b>	Womble Bond Dickinson Offices, Bristol
<b>Meeting objectives</b>	Project Update meeting
<b>Circulation</b>	All attendees

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

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which Developers (or others) could rely.

### Update on progress on application

The Applicant gave a presentation for the benefit of Inspectorate staff that are new to the project.

It explained that NSC proposes to move Quays Avenue to accommodate Portishead Station forecourt; these works would comprise associated development. In addition, a building on Station Road would need to be demolished to allow for a small forecourt at Pill Station.

### Habitats Regulations Assessment (HRA)- update on progress

The Applicant gave a presentation on its position in relation to HRA. The Inspectorate made the following comments on the Applicant's approach and draft HRA Report which the Applicant submitted to the Inspectorate in advance of the meeting:

#### Imperative Reasons of Overriding Public Interest (IROPI)

- The IROPI case presented is more comprehensive than that presented in the draft HRA Report received in summer 2019. It will be for the Examining Authority (ExA)/Secretary of State (SoS) to determine whether it agrees the IROPI case is sound, but the Applicant should expect to be examined on this matter, particularly as Priority 1 habitats are to be affected.

- Further evidence to support the claims regarding reduced travel times for emergency services would be beneficial.
- It is unclear how the safety works in Avon Gorge (associated development) – to deter trespass on railway and protect railway employees and passengers - meet the expectation of IROPI as they appear to be safety measures required for the project rather than health and safety benefits generated by the project.

#### Compensatory measures and the adaptive approach

- Compensatory measures should be additional to conservation measures that would be taken by a Statutory Undertaker to comply with requirements of the Habitats and Birds Directive and compensatory measures should not be used to deliver any measures that should be in place under Article 6(1) or 6(2).
- The Applicant will need to demonstrate that compensation measures are for impacts of the Proposed Development and not just management measures to contribute to the restoration of the site.
- The Inspectorate is unclear how the compensation measures can take into account the stage reached by Network Rail in its own management plan at the time the project starts.
- Europa guidance states that as a general principle compensation measures should be in place before the loss takes place (unless this can be proved unnecessary in the circumstances of the case).
- The Applicant has proposed an adaptive approach to compensation measures. Land within the ownership of the Forestry Commission which is outside but abutting the boundary of the SSSI/SAC has been included at the suggestion of NE as area within which there is the option for the siting of up to 1.45ha of woodland compensation measures, as a possible alternative in whole or in part to using NR land. . The Inspectorate queried how the proposed approach of Natural England (NE) choosing which compensatory measure to adopt at a later date (post-consent) aligns with the HRA procedure and what mechanism is available to the SoS to discharge this responsibility to NE.
- The draft HRA Report notes that further studies are required for the offsite options. The Inspectorate queried what confidence the Applicant can provide that this option would satisfactorily compensate for adverse effects.
- The ExA/SoS would need confidence that either option would provide sufficient compensation. The ExA is not necessarily constrained by the options presented by the Applicant and could potentially make a recommendation based on one option or could recommend that both options are implemented.
- What is the mechanism for delivery of compensatory measures that are proposed offsite (on Forestry Commission land)?
- What is the intention for the Forestry Commission if the offsite option were to be implemented? Would it become part of the Avon Gorge Woodlands SAC and if so who has responsibility for managing it as a European site in perpetuity?

In response to the Inspectorate's comments, the Applicant explained it had already considered and discussed internally the matters raised and has sought an independent legal opinion from specialist Leading Counsel. This endorses the adaptive approach. It also explained that it is confident that the adaptive approach to compensation would secure sufficient compensation for the harm caused by the Proposed Development. The Inspectorate advised the Applicant to submit the legal opinion as part of the application if it considers this would support their position.

## **Great Crested Newt Licences**

The Applicant advised that draft licences have been submitted to NE but that further work was required before a letter of no impediment could be issued. The Inspectorate advised that letters of no impediment are not a requirement of the acceptance process and that efforts should be made to work with NE to achieve this before the end of the Examination period.

The Applicant advised that reptile tunnels previously incorporated into the Proposed Development are no longer required, however it would not be possible to remove these from plans within the ES prior to submission of the application. The Inspectorate advised that application documents should be as up to date as possible and also noted that the ES would be a certified document within the DCO, which the Proposed Development would need to be built in accordance with. It advised the best course of action would be to remove the reptile tunnels from the plans. If this is not possible and the application is accepted for Examination, the Applicant would need to consider the most appropriate course of action for remedying this error within the ES at as early a stage as possible.

## **Administration for Application**

### *Documents list*

The Inspectorate advised that the Electronic Index document, sent to the Applicant recently, should be populated in advance of submission in order to expedite the acceptance process.

### *Navigation document*

The Inspectorate advised that a navigation document is considered extremely helpful and suggested that the Applicant view the Guide to the Application example document on its website for reference.

### *Key changes for PINS to focus on revised DCO*

The Applicant confirmed that there were no new novel issues within the DCO. The Inspectorate advised that it would be helpful if tracked changes Microsoft word versions of any revised DCO can be supplied, as this allows for easier comparisons between versions. Similarly, it would be of assistance if the Applicant could submit track changed versions of management documents (eg Code of Construction Plan) if they are updated throughout the Examination.

### Regulation 8 letter

The Applicant explained that it intends to submit an Environmental Statement in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. The Inspectorate confirmed it would reply post-meeting regarding the need for a Regulation 9 notification. (Note, post-meeting section 51 advice was provided separately on this matter:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-west/portishead-branch-line-metrowest-phase-1/?ipcsection=advice&ipcadvic=75c63572dd>).

### *Consultation report and adequacy of consultation communications – update*

The Applicant advised that the Consultation Report was almost complete and that it would be sent to relevant local authorities as soon as practicable. The Inspectorate confirmed it has written to local authorities to confirm it is expecting an application and that it will be seeking comments on the adequacy of consultation during the acceptance stage.

### *Programme for submission*

The Applicant intends to submit the application during October 2019. On this basis, it would anticipate opening the Relevant Representation period early in January 2020.

### *Mechanics for submission*

The Inspectorate advised the Applicant of the preference for electronic working and that it encouraged the submission of the project documents in this format. It may still be necessary to submit certain documents, such as plans, in hardcopy to aid the Examination.