



Meeting note

File reference	TR050002
Status	Final
Author	Richard Price
Date	30 April 2014
Meeting with	Local authorities affected by proposed East Midlands Gateway Rail Freight Interchange
Venue	North West Leicestershire District Council (NWLDC) Offices, Coalville, Leicestershire
Attendees	Steve Bambrick (NWLDC) Dave Hughes (NWLDC) John Wright (Leicestershire County Council) Andy Yeomanson (Leicestershire County Council) Lonek Wojtulewicz (Leicestershire County Council) James Knightley (NWLDC) Richard Price (The Planning Inspectorate) Andrew Luke (The Planning Inspectorate)
Meeting objectives	Presentation on the Planning Act 2008 process and opportunities for local authorities to engage
Circulation	All attendees

Summary of key points discussed and advice given:

The Planning Inspectorate (the Inspectorate) advised on its openness policy, explaining that any advice given would be recorded and placed on the National Infrastructure Planning Portal website under s51 of the Planning Act 2008 (as amended) (the PA2008). Any advice given under s51 would not constitute legal advice upon which local authorities (or others) could rely.

The Planning Inspectorate made a PowerPoint assisted presentation to attendees. The presentation is attached to the record of this meeting note on the project webpage on the National Infrastructure pages of the Planning Portal website.

NWLDC referred to the tests applied by the Secretary of State on submission of an application for development consent (the 'Acceptance tests'), and queried occurrences of 'non-Acceptance' in relation to previous applications. The Inspectorate summarised the tests applied under section 55 of the PA2008, and drew attention to the National Infrastructure pages of the Planning Portal website which provides a record of those applications which had not passed the Acceptance tests and those which had been withdrawn during the Acceptance period.

The Inspectorate explained the process for local authorities to make representations on the adequacy of applicants' pre-application consultation; and made reference to the informal 'warm-up' letter sent ahead of the request for formal response within 14 days of the submission of an application. The Inspectorate emphasised its duty (on behalf of the Secretary of State) to have regard to any adequacy of consultation representations submitted by local authorities falling under s43 of the PA2008. Further, it was advised that whilst it was good practice for applicant's to document the process and outcomes of informal consultation in their Consultation Reports, they are only required to document and provide evidence of formal (or statutory) consultation under s42 etc of the PA2008. The local authorities were therefore urged to repeat any representations made to the applicant at the non-statutory stage in order to place a duty on the applicant to explain how it has had regard to them.

Leicestershire County Council (LCC) queried the level of detail that would be required to be secured in the associated development consent order (DCO). The Inspectorate advised that the PA2008 regime had not been set up to reflect the 'outline permission' process under the Town and Country Planning Act, and that the provisions within the DCO would need to reflect the materiality of the scheme to the satisfaction of the relevant Secretary of State; in this case the Secretary of State for Transport. The Inspectorate explained that Requirements are routinely included in DCOs to control finer scheme details such as construction management, and that for certain types of Requirements a duty is placed on local authorities for their discharge and enforcement.

LCC queried how the PA2008 process deals with powers to work on existing public highways and the adoption of new roads built by third parties; making reference to the typical process at County level in relation to sections 278, 38, 4 and 6 of the Highways Act 1980 (as amended). The Inspectorate requested for this query to be clarified by email following the meeting, ahead of detailed written advice being provided to LCC and publication to the National Infrastructure pages of the Planning Portal website.

LCC queried if the Community Infrastructure Levy (CIL) Regulations could be applied under the PA2008 process, providing context with specific reference to built elements of the proposed scheme (notably warehousing) which would be frequented by people. The Inspectorate requested for this query to be clarified by email following the meeting, as above.

In the context of the forthcoming general election and anticipated timescales for the emergence of the application and examination, NWLDC queried the implications of a change in Secretary of State (SoS) in the decision period. The Inspectorate requested for this query to be clarified by email following the meeting, as above.

Specific decisions / follow up required?

Planning Inspectorate to provide the following to attendees:

- Presentation slides;
- Example of 'good Local Impact Report' and other relevant documents;
- Link to Department for Communities and Local Government guidance on compulsory acquisition;
- Responding advice in relation to query regarding Highways Act agreements;
- Responding advice in relation to application of CIL under the PA2008; and
- Responding advice in relation to potential change in SoS.