

Meeting Note

File reference	110505_WW010001_Meeting with Mott MacDonald
Status	Final
Author	Eileen Thomas & Nik Perepelov

Meeting with	Mott MacDonald
Meeting date	5 May 2011
Attendees (IPC)	Mark Wilson (Case Leader) Jessica Potter (Senior Case Officer) Alan Netty (Case Officer) Nik Perepelov (Assistant Case Officer)
Attendees (non IPC)	Eileen Thomas
Location	IPC offices, Bristol

Meeting purpose	To discuss the IPC's engagement with Thames Water in connection with the proposed Thames Tunnel project
------------------------	--

Summary of key points discussed and advice given	<p>Mott MacDonald explained that they have been commissioned by Ofwat to provide a review of Thames Water (TW) activities with regard to its intended application for development consent the proposed Thames Tunnel. The meeting was held to look at TW's interaction with the Infrastructure Planning Commission (IPC) in this respect. At the meeting the IPC tabled a number of documents covering their dealings with Thames Water planners to date, all of which are available on the IPC's website.</p> <p>The IPC explained that it was not able to discuss the merits of an application at pre-application stage, nor is it able to give legal advice. The nature of its advice prior to submission therefore can only be by the way of information on the development consent application process and on making representations.</p> <p>The IPC then explained the provisions of the 2008 Planning Act with reference to the Thames Tunnel project. Section 14 of the Act does not currently include a category of project to cover a waste water storage and transfer tunnel. Ministerial statements on several occasions have indicated that the Tunnel project is to be considered as a NSIP, but the latest view expressed by the House of Commons Environment Food and Rural Affairs Committee (Report on the draft National Policy Statement on Waste Water: March 2011) is that the project does not meet the definitions in the Act. The scheme is also listed in the Draft Waste Water National Policy Statement (NPS). NPSs are the primary policy documents for schemes handled under the 2008 Act.</p> <p>In order for the Thames Tunnel project to be identified as a NSIP, the Secretary of State (SoS) can make:</p> <p style="padding-left: 40px;">a) a direction under s35 of the Act for the a scheme to be dealt</p>
---	---

with by the IPC under a Development Consent Order. This would require individual applications to be made to each authority (there is a question mark as to whether a token number of applications would suffice). Work already carried out can be taken into consideration as long as this accords with the pre-application duties cited in the Secretary of State's direction.

- b) an Order under s14(3) of the 2008 Planning Act for an amendment to s14(2) of the Act. In this case individual applications are not required. This may however need to include a provision for work to be considered retrospectively (as long as this is in compliance).

It is understood that Ministers have agreed to lay an Order before parliament pursuant to s43(3) of the 2008 Planning Act to make the project a NSIP, although the timetable for this is uncertain. The above means that until such time as the project is designated as a NSIP, the IPC was of the view that it cannot accept a s46 notification of application or a Regulation 6 notification confirming the Thames Water's intention to provide an environmental statement in respect of the development. Without this latter notice, the IPC is unable to consult upon and adopt a scoping opinion under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

S47 of the Act introduces a duty to consult with the people in the vicinity of the proposal and includes a duty to prepare a statement setting out how the community is to be consulted. This includes a requirement to consult host authorities on the proposed arrangements and for them to respond within 28 days. The fact that the Thames Tunnel project is not deemed to be a NSIP affects the timing of the formal consultation exercise currently planned by TW for September 2011. Another issue affected by the current situation is the right of entry onto land for the purposes of survey.

In addition to the question of NSIP status, the IPC went on to explain other provisions in the Act. Although the ability to alter a project once it has been submitted is limited, worst case scenarios may be used for the EIA process. It was confirmed that the submission of a Health Impact Assessment (HIA) is not mandatory (subject to advice of statutory consultees) and that Planning Performance Agreements are not prejudicial to the IPC process.

Consents in addition to planning can be sought through the Development Consent Order (DCO) and provisions relating to compulsory acquisition can also be included. Local authorities are responsible for agreeing and monitoring s106 agreements (S.714 development consent obligations of the Planning Act 2008). The IPC can add to these, subject to no material change in the scheme. The Act does allow for transitional arrangements but applications under these arrangements need to have been made before October 2011. Contact between the IPC and Thames Water Planners
The IPC began operating in late 2009. The first meeting between the IPC and TW planners was held in 23.03.10. Since October in that year, there has been regular contact between the two bodies by way of emails, letters and meetings. In addition from October, the IPC has attended Thames Tunnel Forum meetings to provide information. The

	<p>dates and content of meetings between the IPC and TW are as follows:</p> <p>23.03.10 Statutory consultation requirements discussed and further clarification on process sought. IPC to arrange an event to explain its process but this would not clash with application activity.</p> <p>12.10.10 Confirmation that the IPC cannot accept the Regulation 6 notification or s46 notification, until such time as the project is designated a NSIP. TW were liaising with DEFRA to resolve this issue, although there was no timetable set. In the meantime they intended to shadow the IPC application procedures. A Statement of Community Consultation has been published by TW and Phase 1 public consultation was being undertaken.</p> <p>Advice was given by the IPC on the level of detail and flexibility that could be incorporated in the DCO, also on HIAs and Planning Performance Agreements. The future of the IPC was also discussed. Matters to be resolved included the project's status as a marine scheme.</p> <p>4.11.11 This meeting was also with DEFRA. A draft National Planning Statement (NPS) was anticipated. The potential s14(3) Order was discussed; TW confirmed the urgency of achieving a viable route to consent given the current infraction proceedings and wishes of affected authorities. Phase 1 consultation was due to end in December 2010 and it was intended to begin phase 2 (subject to an Order being made).after confirmation of the proposed route in Summer 2011. The intention then was to submit a scoping report in Spring 2011 and make an application in June 2012.</p> <p>In addition the following was tabled:</p> <p>29.11.10: Letter to Susan Aistrup at TW containing the IPC's formal response to TW submission on Reg 6 and s46 notices.</p> <p>3.12.10: Note of meeting of Thames Tunnel Forum at which the IPC gave a presentation on their powers and process. Other consents, s106 agreements and CPO powers discussed.</p> <p>29.01.11: Letter to TW dealing with the IPC's approach to TW's scoping exercise and providing a draft list of s42 consultees.</p> <p>16.02.11: Brief email stating that the IPC do not hold confidential information</p> <p>14.03.11: Letter confirming IPC's preferred approach to providing s51 advice.</p> <p>Future of the IPC The future integration of the IPC into the Inspectorate was mentioned with the main difference from now being that responsibility for the final decision moves to the Minister.</p>
--	---

Specific decisions/ follow up required?	
--	--

Circulation	Attendees
--------------------	------------------

List	