

Meeting Note

File reference	EN010018 – Tilbury C Gas Power Station
Status	Final
Author	Mark Wilson

Meeting with	RWE npower; Thurrock Council; Gravesham Borough Council
Meeting date	5th August 2010
Attendees (IPC)	Mark Wilson - Case Leader (MW) Glyn Roberts - Pre application Commissioner (GR) Simon Butler - EIA Manager (SB) Chris Hoggart - EIA Consultant (CH) Nik Perepelov - Assistant Case Officer (NP) Susannah Guest (IPC work shadow from PINS)
Attendees (non IPC)	Leigh Nicholson - Thurrock Council (LN) Alison Campbell – Thurrock Council (AC) Colin Pomphrett – Thurrock Council (CP) David Blazer – Thurrock Council (DB) Remi Aremu – Thurrock Council (RA) Tony Chadwick – Gravesham Council (TC) Geoff Baker – Gravesham Council Senober Kahn – Thurrock Council David Hinchliffe – RWE npower (DH) Carol Cooper – RWE npower (CC)
Location	Thurrock Council Offices, Grays

Meeting purpose	Project update and introduction to the IPC and its processes.
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Summary of outcomes	<p>Welcome and presentation by Mark Wilson and Nikita Perepelov followed by Q&A.</p> <p>CP asked who decides which Local Authority are consulted about the SoCC?</p> <p>SoCC consultee is just the host Local Authority but the 'adequacy statement' is requested from the host and adjoining authorities.</p> <p>Question – does it carry weight if host Local Authority suggests another Local Authority be consulted? NP stated that Consultation has to be effective and well conceived;</p>
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local authorities should consult the host local authority about the proposed SOCC before the consultation takes place and the host LA could flag any perceived or actual omissions from the proposed list of consultees if this is provided by the applicant. For example, in this case one of the most significant visual impacts will be from across the River. Other Local Authorities (who the applicant has no statutory duty to consult) can register as interested parties even if they have had no initial contact from the applicant during the pre application stage.

MW stated that the IPC have seen SoCCs up to 20 pages long which are difficult to publish in full in a local newspaper. Promoters should consider the practicalities of publication when they draft their SoCCs. Where the SoCC is very long promoters could consider publishing a substantive summary in a local newspaper including information about where the full version is available for viewing. Another option is a pamphlet / pull-out in the newspaper, in addition to the published advert. NP stated that nonetheless the Act is unambiguous that the SoCC should be published in a local paper. Promoters should seek their own legal advice about this if they are unsure.

AC said that Thurrock had agreed the scope and form of SoCC as well as the application. Therefore if they agree the SoCC in advance of formal submission it becomes an easy exercise.

TC asked about delegated power to sign off a Local Impact Report (LIR). MW commented that CLG Guidance states that the LIR should be submitted no later than 6 weeks from the close of the preliminary Meeting GR suggested that even though the deadline for submission of the LIR would not be identified until on or after the Preliminary Meeting it would be important for LAs to begin preparation of their LIRs in good time. To inform the Preliminary Meeting LAs could consider send the IPC the LIR in draft form pending sign off by Committee, clearly labelled as such with all the normal provisos in relation to draft documents.

MW commented that the LIR should be a useful document and while projects of this nature are likely to have a political dimension, this should not detract from the need to present objective, technical data about positive and negative impacts in the LIR. The preparation of the LIR and engagement by LAs in the SoCC process would not prejudice any LA's ability to object to the development at the examination.

(NB – Additional note on LIR preparation – A reminder

that IPC Guidance encourages local authorities to cooperate where practicable on preparation of their LIR. The IPC would welcome a joint LIR highlighting areas of agreement shared between responding authorities and any disagreements or distinctive positions held by individual authorities. It would also be helpful if the structure of the LIR document distinguishes clearly between technical evidential assessment prepared by officers or consultants and any formal response statements regarding Cabinet or Committee position/s taken on behalf of the authorities as bodies corporate. Any timescale implications associated with achieving agreement regarding wording of a joint LIR, Member discussions and sign-off should be taken into account in advanced programming of the necessary workload).

Up-date from Promoter

DH –Environmental Statement (ES) scoping now formally submitted to IPC. RWE are up-loading information on to website to cover all stages of the process. Agreement on SoCC reached and press release imminent. Wanted to identify and follow best practice. Just about to start consultation on technical features and consider options. Noted consultation opportunities at Gravesend Big Day Out and Orsett show; trying to attend as many local events as possible. Consultee feedback was fairly consistent - recognised current station on site but people did not often realise that Tilbury B is due to close. Most interest in work opportunities and jobs; particularly timeframes for construction. “Meet the team events” - between 15 and 17 visitors to each and there was a fairly consistent line of interest and topics of discussion. Also starting to consider topic specific debates as modelling studies of elements of proposals become available e.g. operating and commercial limits, capital costs, environmental matters, European Directives, implications of using the river for cooling, air quality, fish, estuary studies. Benefiting from previous study work. On track to submit at end of year, not aware of technical or internal business delays. Appreciated the on-going working relationship with the Council.

Queries: AC asked RWE if topic specific debates would include one on CHP? DH said they look to cover all areas and highlighted that some recent topical discussions had been in the subject areas of air and water. The CHP study revisits detailed work from 2008 and is being updated and amended through contact with Thurrock, Gravesham and consultants to local plans. AC commented it would be disappointing if CHP had been dismissed at the beginning

of developing the proposals. DH stated it was still in the debate and once assessments had progressed a little further, RWE would initiate the topic specific discussion.

Open questions & Answer session

MW – asked RWE and LAs to consider the mechanics of drafting the DCO and how LA feeds into the drafting process. DH responded that DCO was a challenge because Tilbury was one of the first schemes under the new system and there were no examples to follow. MW suggested that promoters provided IPC and LA with early draft of DCO particularly in relation to requirements.

GR noted that ‘requirements’, although effectively the equivalent of conditions, were in fact part of the statutory order and therefore part of what LA enforces. It is therefore in the LA’s interests to comment on and engage with the promoter about how they are drafted.

DH noted that the DCO would be 99% rather than 95% “buttoned down”; although he considered that some flexibility should be allowed for as part of the DCO. £1 billion was a significant expenditure on a power plant. Can’t preclude commercially who they can purchase plant from by being so prescriptive in early stages.

The provisions of the 2008 Act mean that applications must be complete on submission. MW commented that it was up to the promoter to use the pre application stage to inform the preparation of a robust and complete application. All of the negotiation, preparation and testing with the public and statutory bodies that used to happen post submission under the s.36 regime, should now be carried out at the pre application stage. This is not a case of “business as usual” and pre application consultation needs to be effective for the benefit of promoters and other stakeholders. The more effective the pre application consultation, the less risk for the promoter.

The IPC will not comment directly on the adequacy of the promoter’s pre application consultation until the application is submitted and the IPC must then decide whether or not the applicant has complied with statutory pre-application consultation requirements; however, in general terms the focus of all promoters in devising their consultation methodologies should be on genuine consultation and participation by the community, rather than simply presenting the scheme as a “fait accompli” in terms of its detailed design and layout – the promoter must take account of responses to consultation and publicity.

Air emissions were modelled at worst case scenario. GR suggested developers could additionally explain their view of the most probable scenario, provided scope and method of investigations were agreed with statutory consultees. Model relevant to the type of scheme.

DC Obligations: MW stressed that Heads of Terms should, at the very least, be agreed before an application is submitted and signed off before end of examination if possible.

DH suggested that the IPC 'transparency' approach could pose challenges to the developer, particularly for those with linear projects. At the first meeting RWE brought a draft scoping report to inform discussions, but it was noted that anyone could request a copy through a Freedom of Information request (FOI). Attendees noted the importance of draft information being clearly labelled as such given the importance of clarity in detail surrounding the project through all stages of the development process.

MW confirmed that no confidential meetings were held with any party and any documentation submitted informally in draft form may have to be released if an FOI request was received. GR suggested that any Scoping Report sent to the IPC could contain clear waivers and riders about uncertainty or potential changes. It was recognised that changes in pre-application stages were a realistic prospect. However, if there are material changes once the DCO is submitted, the applicants would have to go back through the loop, withdraw, reconsult and resubmit. (NB changes could also affect the scope and relevance of the Environmental Statement). In general such changes should be avoided wherever possible.

DH noted that for linear projects promoters may not be in so much of a rush to release early drafts of ES because of the need to establish the route, taking account of environmental constraints.

MW explored the relationship between Thurrock Council, RWE and Thurrock Thames Gateway UDC (TUDC) given that the Act refers only to LAs and not Local Planning Authorities. MW was concerned to know that TUDC were able to feed into the process appropriately and engage effectively with stakeholders at the pre application stage.

GR asked for some context to understand the position of the TUDC and the intent/timescale for its winding up. AC stated that the timescale was currently "under review". This NSIP project is being handled by Thurrock Council in-house and it has not been necessary to go to TUDC at this

stage. DH confirmed that they had spoken to TUDC and are copying key final documentation to them.

GR suggested that it would be helpful if the parties provided information about the separate roles of TC and TUDC; how both sides will operate together under the provisions of the Act, and some understanding of the timeframe in relation to the continuing role and function of the TUDC. This situation is unique to Thurrock and there needs to be clarity of the remit and roles of both organisations going forward.

MW noted examples of best practice by RWE at Willington gas pipeline; Consent Strategy Report. This sets down the scope of consents in chronological order. This is very useful for IPC and LPAs and will be the subject of a best practice article in a forthcoming edition of the IPC's monthly newsletter.

MW also referred to a previous best practice article (May edition) concerning the Adequacy Statement from Powys Council. Powys established early on in the pre application stage how they would assess the promoter's pre application consultation for the statement of adequacy.

DH noted RWE Willington consent strategy example; commenting that it took 4 months of solid work to navigate through the new legislation and procedures of the Planning Act 2008.

IPC next steps could be holding an outreach event for statutory bodies and stakeholders. May consider holding a wider regional event in acknowledgement of a growing cluster of projects in the Thames Gateway area.

GR asked for parties' initial reactions about the DCO application process: LA stated that there was a lot of information, but that it seemed relatively straightforward at moment to comment on information. Conscious about PPA. AC commented that it was a learning process, particularly learning about what are the flexible points and what aren't. TC commented that Gravesham Council has a limited role in relation to this application and so are using this experience to learn from others. One key issue was realising the need to respond to 2008 Act and delegated powers. They were working out how to involve elected members upfront. If there was major interest in a proposal, the decision would be taken by cabinet. Therefore, concern about how councillors could be engaged. Issues are coming out at the start of the process, rather than at the end and councillors need to be prepared for this new way of working.

	<p>GR – Explained that the 2008 Act and Guidance provide the same formal mechanisms for involvement of elected representatives in the process as for other parties. There are major opportunities for local authorities to participate corporately through the LIR and/or through submission of a formal relevant representation. As regards individual councillors, MPs etc, if they wished to participate formally in the examination process they would need to register a relevant representation and be prepared to give formal evidence through written submission and possibly be questioned in writing or at a hearing by a Commissioner.</p> <p>MW stressed that pre application is a very much a promoter led process. DH responded that it required significant frontloading, and this frontloaded the cost profiles; exposing developers to risk. CP stated that if developers haven't got flexibility at certain stages could restrict their ability to make changes to benefit the environment at a particular time if appropriate e.g. to respond to new technology or emission targets. Have to scope carbon capture in now.</p> <p>Modifications to DCO</p> <p>GR – once a DCO is accepted modification could only occur in very limited circumstances given that, as MW stated, post submission changes that disenfranchised pre application consultees may be unlawful. Any modification sought post decision might also need a fresh ES.</p>
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Specific decisions/follow up required?	<p>Thurrock Council and TUDC to prepare and send a joint letter to the IPC setting out their agreed roles and responsibilities in terms of the Tilbury C application.</p> <p>IPC to arrange a wider stakeholder outreach event in Autumn / Winter 2010, avoiding any conflict with RWE's pre application consultation activities.</p> <p>RWE to consider drafting a Consent Strategy document, when possible, in a similar way to the Consent Strategy submitted as part of the Willington application.</p>
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Circulation List	Attendees
	Lynne Franklin
	Peter Bond