



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Glyn Rhonwy Pumped Storage System – project update

File reference	EN010072
Status	Final
Author	Philippa Davey
Date	15 May 2015
Meeting with	Snowdonia Pumped Hydro Limited (SPH)
Venue	Temple Quay House
Attendees	<u>Planning Inspectorate</u> (the Inspectorate) Kenneth Taylor Jackie Anderson John Pingstone Philippa Davey Vicki Hodgson Jenny Colfer Hannah Nelson <u>SPH</u> Dave Holmes (SPH) Sarah Nixon (SPH) Ben Lewis (Bilfinger GVA) Julian Boswall (Burgess Salmon)
Meeting objectives	Feedback on draft application documents and project update.
Circulation	All

Summary of key points discussed and advice given:

Welcome and introductions

The applicant was made aware of the Planning Inspectorate's openness policy and that any issues discussed or advice given would be recorded and placed on the Inspectorate's website under section 51 of the Planning Act 2008 (PA 2008). Further to this, it was made clear that any advice given did not constitute legal advice upon which the applicant (or others) can rely.

Project update

The applicant gave a summary of the project to date. The anticipated submission date for the DCO application is mid- to late June 2015. The submission has been pushed back due to Natural Resources Wales (NRW) requesting further protected species

surveys and additional traffic data and noise surveys being undertaken. In addition the applicant is carrying out ongoing engagement with stakeholders, including meetings with NRW related to Environmental Impact Assessment (EIA) and Habitat Regulations Assessment (HRA) issues.

The applicant confirmed that agreement on the HRA has been reached with Gwynedd Council. The applicant is in discussion with Gwynedd Council regarding an access road which is outside the order limits.

The applicant is also in ongoing negotiation with affected landowners. Where negotiations are successful and private agreements are reached the applicant does not intend to apply for compulsory acquisition (CA) powers over that land. The Inspectorate pointed out that many DCOs will retain CA powers over land even where private agreement is reached. This practice minimises the risk of unknown rights/interests being discovered that were not privately agreed.

Common land in Wales

The area north of the access track that runs past Quarry 1 is common land. The applicant intends to deregister part of this land and use a plot of nearby land as replacement land. This common land application is due to be submitted to the Welsh Government at the same time as the DCO application or just after. The Inspectorate advised that the Examining Authority (ExA) will want comfort that there is no obvious impediment to the separate application being consented within a reasonable timeframe.

Footpaths

Schedule 3 'Streets for which a substitute is to be provided' is currently blank. SPH stated that they intend to permanently change two rights of way. The Inspectorate pointed out that the Act does not provide for associated development in Wales to be included in a DCO. As such, all development within the DCO will need to be justified as integral to the NSIP project.

The footpaths in issue will need to be specified in the Schedule and shown on a map. A trigger event (other than closure of the footpath) will need to be specified and provision will need to be made to ensure that replacement rights of way (specified in the Schedule and shown on the map) are provided to the reasonable satisfaction of the LPA before existing rights of way are extinguished.

Welsh translation

The applicant stated that they would submit a schedule of the documents that will be translated into Welsh. It will likely include summary and non-technical documents.

Funding Statement and Statement of Reasons

The Funding Statement and Statement of Reasons are still being drafted - the applicant is considering blight and compensation.

Draft documents

The Inspectorate provided feedback on the following draft documents:

- Plans
- Consultation report
- Book of Reference (BoR)
- Consents and Other Licenses
- No Significant Effects Report (NSER)
- Development Consent Order (DCO) and Explanatory Memorandum (EM)

Prior to the meeting, the Inspectorate sent the applicant some initial comments in respect of the DCO and consultation report. The Inspectorate also sent the applicant a letter outlining advice in respect of the applicant's NSER. These comments along with feedback on the above documents are contained in the annexes to this meeting note. Discussions in respect of the draft documents focused on these comments.

Submission of the application

When submitting the application 2 hard copies should be submitted and 1 unsecured electronic copy; the electronic copy may be on CD/DVD or a USB drive.

A shapefile should be submitted as soon as possible before the submission of the application.

A letter will be sent to the applicant containing details of the fee amount.

The Inspectorate requested that the applicant submit a word version of the DCO.

The Inspectorate requested the contact details for all local authorities consulted by the applicant.

The applicant will be submitting a schedule of conditions that applied to the previous Town and Country Act Planning Application and how they relate to the DCO requirements.

The applicant will be submitting a schedule detailing which documents will be translated into Welsh.

The Inspectorate informed the applicant that should the application be accepted for examination, an allocated programme officer would be in close contact with them in regards of the logistics for running the examination and arranging the preliminary meeting.

Annex A – Plans

The applicant may want to consider the scale of the plans to make sure they comply with the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regs 2009.

Existing site layout plan:

- On this plan it says 'new/temporary access track'. Should it be 'new and temporary access track'? (The / implies it is an 'or').

Historic environmental features:

- Perhaps it could be made clear on the plan that the numbered sites correspond with Appendix 10.1 of the Environmental Statement.

Nature conservation sites:

- For clarity it is suggested that the blue colour for either surface water or reservoirs is changed as it is difficult to see the difference.
- It is also suggested the colour for ancient woodland could be changed as it is difficult to see on the plan.

Water Framework Directive:

- It may be worth making the SACs the same colour on each plan for consistency and clarity (for example it is orange on the nature conservation site plan and green on WFD).

Works plan sheets 1-5:

- Work 1D looks like it is just a strip, whereas it is the whole blue hatched area. Suggest this is made clearer.
- Some of the works have disconnected parts, such as 1C. It could be clearer if each of these parts could be labelled with the work number it corresponds to.

Works key plan:

- The works shown in sheet 3 seem to also be shown in sheets 2 and 4, and the same applies to sheet 5 which is shown within sheet 4. Query whether sheets 3 and 5 are necessary.
- Suggest that all sheets are the same scale.

Land Plans:

- The key states that 'temporary occupation' is being applied for over the land, but there is no such power in the DCO.

Annex B – Consultation report

Schedule of minor changes and feedback

Section of Consultation Report/Appendices	Planning Inspectorate Comments
Chapter 1 – Executive Summary	This area is highlighted and contains wording from pre-application guidance.
Chapter 1	The final version will be translated into welsh. Provide clarity on the final version of what?
1.1.9	Refers to chapter 0. This appears to be a mistake?
1.1.13, 1.1.18 and 1.1.19	These sections are highlighted green.
9.3.7	Another section highlighted in green that appears unfinished.
9.5.1 – 9.5.3	'4 extra s42(1)(d) parties were identified' – but there is no explanation of who these people are here.
11.4.4	There are various empty tables in this section, with nothing to say why they are empty, for example, cumulative impact, feedback from Q2, feedback from Q3, Flood Risk etc.
11.5.1	There is a heading for this section, but the section itself is blank.
11.6.1	Post consultation changes to Red-line boundary. Minor and do not require re-consultation – What are these changes? The applicant needs to justify that they are minor and explain why no re-consultation is necessary.
12.1.2	Refers to SP Manweb, which appears to be incorrect.
12.3.1	This section has been left blank.
12.8	As in 11.2.6 above, there are various empty tables in this section, with no explanation as to why they are empty.
12.10	This section has been left blank.
14.1.1	Another reference to SP Manweb, which appears to be incorrect.
Appendix 8.6	Prescribed consultee list – this list is not only prescribed consultees (from our Reg 9 Prescribed Consultee list). PINs actual list of Prescribed consultees is contained in the previous appendix. The contents of appendix 8.6 could therefore be made clearer.
Referencing	Generally, cross-referencing between sections/tables within the report and its appendices need to be correct (see above 1.1.9 for an example).
general	The applicant is advised to ensure that any discrepancies between persons listed in the BoR and subsequently listed in the consultation report are clearly explained in the consultation report.
general	The feedback under s49 contained in the consultation

	report suggests that the area is part of a tentative UNESCO World Heritage Site. This is an issue that may be raised in representations during the examination or the ExA may chose to ask questions about it. Given this it may be sensible to speak to DCMS now to air any issues or give comfort that there is no issue.
general	The consultation report mentions a silt management plan as mitigation for the impact on fishing and anglers, is this still going to be submitted or is now part of the Water Management Plan (Req 8)? There is no silt management plan requirement in the DCO.

Annex C - Book of Reference

It may be helpful to clearly show which persons are in Category 1 and which are in Category 2 by labelling the columns (it would appear that the last column is Cat 2 and all the others are Cat 1).

Part 2 is broken down into 2a, 2b, 2c. Whilst this is a reasonable approach and has been used in previous BoR's it does not strictly comply with DCLG CA guidance.

There are no Part 2 persons listed. The applicant should be sure that due diligence has been carried out and that persons with a possible relevant claim are properly recorded in the Book of Reference.

Part 3 persons should be replicated in Part 1, the need for this is set out in Annex D of the DCLG CA Guidance. The applicant needs to ensure that persons in Part 3 are recorded in the s59 notice, which will ensure that they are afforded affected person status and have the right to call for a CA hearing.

Part 4 - Interests held 'on behalf of the crown' for example NRW, should be duplicated in Part 1 to show that those interests are being acquired. Other interests in Part 4 which are held directly by the Crown authority should not be duplicated in Part 1 as they cannot be acquired.

Part 5 - There is 'open country land' included in the BoR however it is not clear whether this is equivalent to 'open space' under the PA2008. Open country land appears to be designated under the Countryside and Rights of Way Act 2000 and is defined differently to Open Space under the Acquisition of Land Act 1998. The applicant will need to consider carefully what status this land has.

Part 5 could be made sequential (by plot) to make it easier to read. If there is a particular reason for ordering it in a different way that could be explained in the preamble to the Book of Reference.

Annex D – Other consents and licences

It would be helpful to add a column to say when the consent/license will be applied for and a column to show whether that consent is being achieved through the DCO.

Annex E – Draft NSER

1. Draft NSER Section 1.2: The Development

The applicant should ensure that the description of the development in the draft NSER is consistent with the Development Consent Order (DCO).

The applicant should ensure that the design of the development is as firm as possible at the time of submission, and where flexibility is sought, the design parameters are clearly defined and correspond to the draft DCO. Importantly the assessment should be made against the worst case scenario having regard to the design parameters required. The draft NSER must provide a clear description of the worst case scenario used for the assessment with reference to the project description in the draft DCO. A justification explaining why the 'worst case scenario' used is appropriate should also be provided. The applicant may find it necessary to consider different 'worst case scenarios' dependent upon the aspects of the environment likely to be affected.

To improve the understanding of the development components referenced in the draft NSER it would be helpful for the draft NSER to include a figure which identifies these.

2. Draft NSER Section 3: Identification of Potential Effects and Natura 2000 Sites (project alone)

This section of the draft NSER should refer to any guidance used to develop the site screening methodology. The draft NSER should describe the consultation that occurred to screen sites into or out of the assessment, and provide corroborative evidence from Natural Resources Wales (NRW) to demonstrate that all relevant sites have been considered in the draft NSER.

All potential impacts which could affect the European Sites screened into the assessment are described in Table 3.2 of the draft NSER. Table 3.3 provides confirmation of the impacts which have been scoped out of the assessment based on the information available. Where guidance and data (e.g. from the Environmental Statement (ES)) is relied on to support the reasons for scoping an impact out of the draft NSER this should be clearly referenced. The draft NSER should include corroborative evidence from NRW to demonstrate that all relevant impacts have been considered.

Table 3.3 of the draft NSER confirms that consideration has been given to the loss of bat roosts within the order limits of the DCO. In particular the emphasis will be towards those roosts with the potential to support lesser horseshoe bats, a qualifying feature of the Glynllifon SAC ('direct disturbance to species'). The Planning Inspectorate notes that the assessment should also consider other forms of impact which could cause disturbance to bats where roosts remain; such as noise and lighting.

The draft NSER does not include the applicant's definition of what they consider a 'likely significant effect' to be. The applicant is advised to clarify this in their draft NSER. The basis for this definition should be clearly explained including a justification particularly where professional judgement has been applied. If reliance is placed upon

any publication or guidance this should be clearly referenced and be publically available or otherwise provided with the draft NSER Report as an appendix.

3. Draft NSER Report Section 4: Screening Assessment

The screening assessment of the draft NSER makes direct reference to some features of the European Sites screened into the assessment. The screening assessment should clearly describe how each and every feature has been considered in the assessment.

The applicant should provide a clear reference to all data sources used to evidence statements made in the draft NSER. For example in paragraph 4.4.2 of the draft NSER the source of the information used to reach the conclusions in relation to the anticipated levels of dilution and dispersal should be referenced.

The screening assessment confirms where mitigation has been taken into account in the assessment (e.g. paragraph 4.2.8 of the draft NSER). Where mitigation is relied on to reach the conclusions of the draft NSER the applicant must be able to demonstrate that this mitigation is secured in the DCO or through other means. The applicant is advised to include a section in the draft NSER to summarise all of the mitigation relied upon and confirm how each measure would be secured. If reliance is placed on plans that need further approval via a DCO requirement (e.g. a Code of Construction Practice) then drafts of these plans should be provided along with the DCO application. These draft plans will be used to demonstrate how the mitigation measures are to be delivered and give confidence to the Competent Authority (CA) as to the efficacy of such plans.

4. Draft NSER Section 5: In-combination Assessment

The applicant confirms that there are no developments likely to produce in-combination effects and therefore an in-combination assessment is not required (paragraph 5.1.3 draft NSER).

Paragraph 1.2.30 of the draft NSER confirms that insufficient information is available to include the substation development in the in-combination assessment. However, the applicant goes on to confirm that this will be included in the cumulative assessment in the ES. The Planning Inspectorate notes that if sufficient information exists to inform the cumulative impacts assessment for the ES, then it is unclear why such information cannot equally inform the in-combination assessment for the purpose of compliance with the Habitat Regulations. The Planning Inspectorate encourages the applicant to give the approach to in-combination assessment careful consideration as it is an important part of the Habitat Regulations Assessment (HRA) process.

In addition to the points identified above the Planning Inspectorate also notes that the draft NSER does not assess in-combination effects with any of the other elements necessary to deliver the proposed development but which are outside of the works defined by the DCO (e.g. the electrical connection, highways improvement works). The Planning Inspectorate considers that the consequential nature of these works is reasonably foreseeable and should be considered as part of the in-combination assessment.

The draft NSER to be submitted with the application should include corroborative evidence from NRW to confirm their agreement with the approach to the in-combination assessment.

5. Draft NSER Report Appendix B: PINS AN10 Screening Matrices

The Planning Inspectorate is pleased to note that Appendix B of the draft NSER includes a screening matrix for each of the 13 European Sites screened into the assessment. The applicant is advised to review the matrices in light of the points raised below:

- Table 8.2 in Appendix A of the draft NSER lists the qualifying features for each European Site screened into the assessment. For the European Sites where this applies, the screening matrices do not include the Annex 1 or Annex 2 features 'present as a qualifying feature but not as a primary reason for selection'. The draft NSER will also need to consider the potential impacts of the proposed development on these features. This information should be provided in the draft NSER and referenced in the screening matrices.
- Each footnote should provide a clear reference to all the data sources used to evidence statements made e.g. information provided in the draft NSER Report, ES and any other relevant documentation. It is useful to refer to consultation responses e.g. from NRW to support any conclusions reached.
- Lavan Sands Conway Bay SPA Matrix - the only feature included in this matrix is 'Population of European importance of Oystercatchers' obtained from the JNCC SPA Review. The Natura 2000 data form also lists 'Eurasian Curlew' and 'Great Crested Grebe' as qualifying features. The applicants attention is drawn to the information provided on JNCCs website which states "*Where there is a mismatch between species listed in extant citations and listed in the 2001 Review for the same sites, there has been confusion as to the 'correct' list of qualifying species to be used at any site for purposes of management, assessment and development control. At sites where there remain differences between species listed in the 2001 Review and the extant site citation, then the relevant country agency should be contacted for further guidance*" (<http://jncc.defra.gov.uk/page-5485> updated May 2015). The applicant should confirm in their HRA Report whether the qualifying features have been agreed with NRW and provide evidence of this.
- Abermenai to Aberffraw Dunes SAC Matrix – 'Dunes with *Salix repens* ssp. *Argentea* (*Salicornia arenariae*)' is repeated twice in the matrix and 'Humid Dune Slacks' is missing.
- The European Site Features column in the Anglesey and Llyn Fens Ramsar should reference which Ramsar Criterion each feature refers to.

Additional points in relation to the presentation of the matrices:

- All Matrices are titled 'Stage 1 Matrix A'. For ease of referencing the titles should be re-labelled Matrix A, B, C etc.
- The site codes should be referenced in each matrix.

- 'Effect 1, Effect 2 etc could be renamed in each Matrix to relate to the nature of the effect to avoid the need for repeated reference to the Table of Impacts provided on Page 2 of the Screening Matrices.

6. Agreement on the scope of the HRA

The draft NSER indicates that the scope of the assessment has been discussed with NRW. Copies of all correspondence to confirm the level of agreement reached on the scope of the assessment and its conclusions should be appended to the draft NSER.

Annex F – DCO and explanatory memorandum

The applicant was advised to provide greater clarity in the EM as to how the development met the thresholds in section 15 of the Act.

The applicant was advised to provide provision (possibly in the DCO) to deal with the existing planning permission granted under the Town and Country Planning Act (TCPA) 1990 in the event of consent being granted pursuant to the application in issue.

The applicant was advised to ensure that the parameters of the development were adequately defined, and where a degree of flexibility was required this was justified in the EM. Currently some of the works require greater clarification; both in terms of design and location (Work No. 1D). Requirement 4, dealing with detailed design, is not complete in respect of the provision of maximum heights, widths, lengths etc. Vertical limits of deviation should also be provided and works plans which include a section, e.g. showing the location and any limits of deviation for the penstock.

The applicant was advised to further specify the proposed 'further development' particularly in relation to 'connection to the electricity network...' It is understood that this is not intended to be the whole of the proposed connection, however this must be well defined and justified as integral to the development.

The applicant was advised to reconsider the draft requirements. Currently there are a number of requirements proposed that would typically fall within the scope of a requirement which secured a construction environmental management plan (CEMP). The applicant was advised to consider a CEMP approach. A draft CEMP could be incorporated into the ES and this could provide the local planning authority with comfort that the relevant matters they had sought to secure via the conditions on the TCPA application are provided for in the CEMP.

Many of the requirements allow for a phased approach. This is acceptable in principle; however it is not currently clear how the project will be phased. A requirement that secured a phasing plan would be one means by which clarity can be provided. Details of and mitigation for the construction activities (such as the construction compounds and lighting) should be clearly provided for through the requirements (linked with the CEMP as appropriate).

Currently the options for creating the penstock (tunnelling or blasting) are not clear within the DCO. The options that are proposed should be clear which will also provide clarity as to the options that are not proposed (open cut). The method utilised will

have implications for the mitigation required and as such there should be clarity which options are proposed and at which point a decision will be taken on the preferred method (i.e. prior to works commencing) as this will then inform the mitigation necessary.

The Inspectorate offered to review a further iteration of the draft DCO, to provide comments on the refined description of works, requirement 4 and the schedules that are currently incomplete.

Schedule of minor changes

Article	
2	Add definition of 'commence' to interpretation
2	Add 'highway authority' to interpretation
13	This article needs a trigger to ensure the new replacement/diverted PROWs are provided before the existing ones are extinguished – this is also not dealt with in requirement 14 either.
15(1)	Location of works accesses to be indicated with an "X" on the works plans – currently no "X" are shown on the works plans.
15(2)	Reference to 'highway authority' should be changed to 'relevant planning authority'
16(3)	Typo – change '1n' to 'In'
18	After (4)(b) formatting of para (5) incorrect and then para numbering incorrect
19(5)	Typo – change 'rand' to 'land'
23(1)	Typo – delete full stop after '... (compulsory acquisition of land)'
23(2)	Typo – reference to column '(I)' should be column '(1)'
23(2)(a)	As above
32(1)	Typo – change 'II' to '11'
32(2)(a)	Typo – change 'anti' to 'and'
34(6)(b)	Typo – change '(II)' to '(11)'
36(3)	Typo – change '(I)' to '(1)'

Schedule 1 – part 2 - Requirements

1	CEMP given as an abbreviation does not appear to be used – rather there is a collection of requirements that capture matters that typically fall into the scope of the CEMP.
1	NRW is given as an abbreviation, however it is never used 'Natural Resources Wales' is always set out in full.
2	Query the necessity of some of this requirement as it is repeated in all the relevant requirements i.e. 'the details, scheme or plan must be implemented as approved'
4	Note parameters schedule currently not available – must be consistent with HRA, ES, schedule of works, works plans etc.
4(3)	'Phase' is introduced here and then used throughout the requirements. Clarity needed as to what a phase involves. It may be that an additional requirement for the undertaker to first submit a phasing plan to the relevant planning authority, would deal with this adequately.
4(4)	Typo – reference to '(4)' should be to '(3)'
5	The terms 'commissioning' and 'operation' are not defined; definitions

	would provide clarity/certainty.
7(4)	It is not clear whether this part of the requirement is phased.
10	'relevant sewerage and drainage authority' is not defined in the interpretation article or requirement 1.
12(2)(b)	Typo – repetition of 'to taken'
13	Query whether details should be submitted to and approved by the relevant planning authority, in consultation with the highway authority rather than being approved by both.
13(2)	Incorrect reference to 'Commission' should be relevant planning and/or highway authority
14	Delete first reference to 'relevant planning authority'
17	The relevant works appear to be 1B and 4D although only 1B is listed.

Schedule 3

Refers back to article 11 but should also refer to article 13.

Schedule 6

Typo/formatting in reference to article 23(2)

Schedule 7

Para 2 - typo – reference to para 'I' should be '1'

Para 5 – incorrect reference to 'Clocaenog Forest Wind Farm Order ...'

Para 5(2) and 5(3) – typo – reference to para 'I' should be '1'

Explanatory memorandum

The use of the term 'The Company' in the EM is slightly confusing as this term is not used or defined in the DCO; suggest it is changed to 'undertaker'.

The explanation of Art 14(7) in the EM cites the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010, note that these regs are revoked for applications made on or after 6 April 2015 and replaced by The Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. Although this makes no practical difference in this instance as orders under the Road Traffic Regulation Act 1984 are still s150 consents.