

VIP Stakeholder Advisory Group
Minutes of the thirteenth meeting held on 26th March 2019

Stakeholder Advisory Group members present:

- **Chairman** Chris Baines
- **Cadw** Kate Roberts, Principal Inspector of Ancient Monuments
- **Campaign for National Parks** Ruth Bradshaw, Policy and Research Manager
- **Historic England** Amanda Chadburn, Senior National Infrastructure Adviser
- **Landscape Institute** Mary O'Connor, WYG Associate Director
- **National Association of AONBs** Howard Sutcliffe, AONB Manager, Clwydian Range and Dee Valley AONB
- **National Grid** Barney Wyld, Director of Corporate Affairs
- **National Parks England** Rob Meetham, Landscape Architect
- **National Trust** Dr Ingrid Samuel, Historic Environment Director
- **Natural England** Liz Newton, Director Strategy Development
- **Ofgem** [dialled in] Anna Kulhavy, Senior Economist
- **The Ramblers** Alison Hallas, Policy and Advocacy Officer (Countryside and Access)

Apologies:

- CPRE
- CPRW
- National Parks Wales
- Natural Resources Wales
- Visit Wales

Secretariat in attendance:

- **National Grid** – Michelle Clark, VIP Project Manager; Ben Smith, VIP Project Manager (South); Eloise Frank, VIP Project Manager (North); Andrea Key, Consents Officer; Steve Lam, Regulatory Submissions Manager; Christopher Hawkins, Development Engineer; Adrian Chanter, Consents Officer; Simon Best, Legal Advisor
- Professor Carys Swanwick, Independent Advisor to National Grid
- **Camargue** – Stuart Fox; Jane Dalton

The purpose of the meeting on 26th March was for the Stakeholder Advisory Group to:

- Hear updates on the four schemes prioritised for replacing existing overhead lines with underground cables in Areas of Outstanding Natural Beauty (AONBs) and National Parks in England and Wales
- Discuss the way forward for the New Forest project
- Receive an update on the Landscape Enhancement Initiative

1 – Update on the scheme in the New Forest National Park – 4YB.2

1.1 – Current position

National Grid's Ben Smith gave the Stakeholder Advisory Group an overview of the project specification, including the removal of eight pylons and 3km of overhead line, and the significant number of national and international designations in and around the proposed project area. Other project constraints were identified and discussed, including the recreational and agricultural use of the area, common land and the use of commonable rights, the need to avoid wet areas with high ecological value, and proximity to residential properties. Longer term advantages were also

discussed, including meeting the landscape enhancement objectives of the VIP project, and the opportunity to regenerate and extend heathland habitats.

The Stakeholder Advisory Group also received an update on the main works contract tender and stakeholder engagement. Updates on stakeholders included meetings with or comments received from local commoners, the parish council, the local New Forest Stakeholder Reference Group, the National Park Authority, the National Trust and Natural England.

The Stakeholder Advisory Group discussed the impact on the ecology, local inhabitants, and the zone of visual impact for the existing overhead line. The discussion also included current and future landscape management proposals, including current and proposed arboricultural management.

Following the presentation, the Chairman and the Stakeholder Advisory Group discussed the history and ecological significance of the area, as well as current and alternative proposals. The challenges of various options were also considered, including the impact of construction accesses, and potential locations for sealing end compounds (SECs). It was noted that the final design for the SECs located them outside the European designations. Tunnelling impacts were also discussed, including potential head house locations and the impact of haul roads for the necessary construction traffic. Consenting challenges and the significant increase in construction costs were also identified.

The Stakeholder Advisory Group considered the success of the site walkover with stakeholders in December 2018 with Alaska. It was noted that stakeholders had been particularly impressed with the heathland restoration and/or re-creation at St Leonard's. The speed and quality of the recovery after translocation had been completed had impressed the Stakeholder Reference Group, representatives of the Verderers, National Trust, the National Park Authority, Hale Parish Council and Natural England. National Grid explained that the high quality of the work has resulted in Alaska being specified by name to potential contractors working on VIP in the New Forest.

A meeting in January 2019 with local commoners to discuss access routes and crossing points was noted. This meeting was also attended by representatives from the Verderers, Commoners Defence Association, Forestry Commission and National Trust. At the meeting, some local commoners raised concerns regarding fencing and gating required for the project. National Grid confirmed that the Verderers and Commoners Defence Association had been consulted on and were supportive of the access and crossing proposals. The management of the impact of these temporary works was received more positively.

A successful site visit in February 2019 across Hale Purlieu with Alaska and representatives of Hale Parish Council and the Protect Hale Purlieu (PHP) movement was discussed. An offer was made for the PHP group to attend the St Leonard's site if they wished.

It was noted that ground investigations and potential hydrological changes have also been discussed with Alaska. It was also noted that advice has been taken from Alaska about the impact of drainage changes, as well as feedback from the close liaison with the National Park Authority and Natural England through the evolution of the project.

1.2 The route to consent

The Stakeholder Advisory Group then considered the impact of the Habitats Directive. It was explained that the required Appropriate Assessment had been undertaken, and it had confirmed that the scheme affects the integrity of a designated site. As a result, legal advice had been obtained, and it was certain that that the project needed to demonstrate that there were imperative reasons of overriding public interest (IROPI) to support the required application for planning

permission. It was explained that the National Park Authority would have to decide whether the following sequential tests could be met:

- i) There are no feasible alternatives to the project;
- ii) The project should proceed for imperative reasons of overriding public interest; and
- iii) That any necessary compensatory measures have been secured.

The Stakeholder Advisory Group was advised that the first test, the availability of alternative options to the impact of this project on these designations, had proven to be a significant hurdle. The availability of alternative VIP proposals outside the New Forest, and with no impact on European designated sites, had resulted in legal advice that it did not appear possible to pass this first test, and demonstrate a case that had a reasonable chance of success when submitted to the National Park Authority.

A detailed discussion within the Stakeholder Advisory Group followed. Natural England indicated that its legal advice differed from that received by National Grid. In particular, Natural England's legal advice indicated that the range of alternatives to be considered could be limited to those within the New Forest area. National Grid explained that this alternative interpretation had been identified and explored with a QC. Although it was clearly disappointing, the QC advice confirmed that strategic options outside the New Forest National Park area needed to be considered to pass the first test. National Grid was satisfied that this was the correct interpretation of the test under the current law and guidance and had not come to this conclusion quickly or lightly.

The Stakeholder Advisory Group also discussed the nature of the project's impact in some detail. The high quality of the restoration demonstrated by Alaska was agreed to be impressive. The discussion considered whether the ability to restore an affected site to such a high standard reduced or removed the impact on the integrity of the site. National Grid said that this matter had also been the subject of legal advice. The legal advice was unequivocal and has stated that restoration was a matter for the third IROPI test. It had also noted that it could not be considered until the two previous tests had been passed due to the sequential nature of the IROPI tests.

The Stakeholder Advisory Group discussed the option of making a planning application and leaving legal matters to be tested via the consenting process. The decision-making timetable, the potential delays and challenges, and the loss of funding for any alternative project that could be delivered in the remaining time were all discussed. National Grid explained that a significant legal dispute could delay the consenting of the project by approximately 18 months to two years.

For the sake of completeness, the other tests were considered too. The second test, the overriding public interest in the delivery of the project, was discussed. The Stakeholder Advisory Group was advised that there was confidence in the ability to show that undergrounding the overhead line was in the public interest. There was a discussion about the 'overriding' need element of the test. National Grid advised that the legal advice supported the passing of the second test.

The third test, securing compensatory measures, was also discussed by the Stakeholder Advisory Group. National Grid noted that the measures would need to be agreed ahead of submitting the planning application. Work had already begun on this aspect, and if a submission was to be made there would be further work to complete. There was no legal concern about the ability to pass this test.

The Stakeholder Advisory Group discussed the cost of the work so far, and what further steps would be required to secure consent for the project. The project development so far was believed to be

economic and efficient. The Stakeholder Advisory Group considered whether further spending could be justified when (a) there was a genuine risk of a significant delay and substantial additional legal costs to support the interpretation of the IROPI tests required to secure consent, and (b) the opportunity to deliver one of the alternative VIP projects might be lost. The Stakeholder Advisory Group discussed potential alternative projects and their overlap with, or proximity to, European designated sites.

The Stakeholder Advisory Group discussed the ability to deliver the New Forest VIP project given the legal advice about the current interpretation of the IROPI tests. It was noted that the IROPI tests, and the availability of alternatives was likely to prove a challenge in the construction of a robust planning application. It was noted that the local planning authority may be unable to approve the application as a result of the apparent conflict with the IROPI tests, whether or not the local planning authority received objections to the application. The Stakeholder Advisory Group noted that an appeal to the Secretary of State may be the only means by which a consent could be achieved, with the additional complexity of becoming a leading case on the topic in due course.

There was strong Stakeholder Advisory Group support for the ambition of delivering the New Forest project, but the group noted that the questions linked to the IROPI tests made it difficult to be certain that the project could be consented and delivered in time. It was also noted that if the planning application were to be made, and the New Forest VIP project failed to secure consent, there would not be time to deliver any of the currently available alternative VIP projects.

The Stakeholder Advisory Group also noted that the current wording of the guidance informed some of the conclusions in the legal advice. The Stakeholder Advisory Group believed that if the guidance was not supportive of a project such as this, it was likely to be an unintentional effect of the drafting. The Stakeholder Advisory Group discussed what changes would be required to allow a project such as this to be supported. The changes were important, but not significant in scale. It was noted that a number of international transmission utilities were considering (a) new infrastructure projects which might require compensatory measures, or (b) projects to remove or reduce the visual determinant of infrastructure development over the last five or six decades. It was reasonable to anticipate that European standards would be a consideration for a number of these projects. The Stakeholder Advisory Group discussed the likely interest of CIGRÉ (The International Council on Large Electric Systems) in the challenges faced in this instance. There was a belief that such contact might result in the guidance being revised and clarified. If that could be achieved the Stakeholder Advisory Group noted that the New Forest proposal could be revisited with greater confidence in the event that a successor to the current VIP package came forward in RIIO T2.

The Stakeholder Advisory Group then discussed the principles behind the current VIP funding. Ofgem advised that the VIP fund was established to provide funding for projects which could be delivered in RIIO T1. Although untested, it was expected that unused VIP funds would be lost rather than carried forward. It was also understood that VIP funds were intended to be focused on restoration and improvement. Although it was appreciated that clarity on the IROPI tests would assist in the prioritisation of such projects in the future, it was noted that this was a longer-term benefit and outside the intended purpose of VIP funding. Any benefit that could be realised was also unlikely to be realised within the RIIO T1 timescale. This need to deliver within the RIIO T1 period was likely to require any alternative project to be delivered in the same period. The Stakeholder Advisory Group could not rely upon any extension of RIIO T1 to allow for a late replacement, but Ofgem indicated that a formal request could be made to get clarity on this point if required. The chair thanked the Stakeholder Advisory Group for the useful discussion and informed the meeting that a draft conclusion would be presented after lunch to capture the debate so far, and to offer alternatives for matters that were yet to be resolved.

1.3 – Wider implications and next steps

Following the discussion in the morning, a detailed consideration took place about both the conclusions of the Stakeholder Advisory Group, and appropriate next steps.

The Stakeholder Advisory Group agreed that:

- (1) the IROPI tests apply to the New Forest VIP project; and
- (2) the application of the IROPI tests to the New Forest VIP project means there is little prospect of achieving consent within the RIIO-T1 period, as set out in recent legal advice; and
- (3) subject to screening, the IROPI tests could affect other sections of projects including
 - Cotswolds - Line section ZF 2,
 - Snowdonia - Line section ZK 1,
 - Tamar Valley - Line section YF 1,and potentially could affect sections of
 - Brecon Beacons - Line section 4YU 3,
 - Lake District - Line section ZX 1,
 - Peak District - Line sections 4ZO 3, 4ZO 4.
- (4) that there may not be time to develop an alternative project to replace New Forest VIP and the available RIIO T1 provision may be unspent as a result.

The Stakeholder Advisory Group concluded that:

- (1) work on the New Forest VIP project should be paused because of the poor prospect of achieving consent within the RIIO T1 timeframe; and
- (2) every effort should be made to apply the RIIO T1 provision the North Wessex Downs project so that that the RIIO T1 provision is not lost; and
- (3) the North Wessex Downs project should be presented for approval as soon as possible to the Stakeholder Advisory Group, and then to Ofgem; and
- (4) the difficulties with the IROPI tests should be reported to CIGRÉ in case it can make representations so that future enhancement programmes are not inappropriately affected by this constraint.

The Stakeholder Advisory Group also discussed and agreed appropriate communications with stakeholders in both the New Forest and North Wessex Downs areas, and agreed a joint statement to explain the Stakeholder Advisory Group recommendation and the next steps for both the Stakeholder Advisory Group and National Grid.

2 – Update on the other schemes shortlisted for underground projects

Michelle Clark, Ben Smith, Eloise Frank and Andrea Key from National Grid gave an update on the progress of the other three schemes that have been prioritised to be taken forward. A summary of progress and specific issues for each of the schemes is outlined below.

2.1 – Dorset AONB – 4YA.7

The Stakeholder Advisory Group was given details of the current status of the Dorset VIP project, including:

- June 2018 - planning permission for the project obtained from West Dorset District Council
- November 2018 - Ofgem approval of £116m funding
- End of 2018 - completion of 147 archaeological trial trenches, including the discovery of some sixth century skeletons
- Early 2019 - Morgan Sindall appointed as the main contractor

The project timeline was shared with the group and it was noted that some early construction access works were due to start shortly. The fencing works and the works on the A35 were expected to be completed in summer, with some of the northern construction works beginning in Q3 2019. The main contractor was working on the detailed construction programme and the Stakeholder Advisory Group will be visiting the site in Dorset to see the live project later in the year.

2.2 – Peak District National Park (Eastern section – ZO.2)

The Stakeholder Advisory Group was given details of the current position and plans for the Peak District project, including:

- Tender - is being progressed as a cable tender, with an option for GIL. This should enable the most efficient option to be understood
- Planning application - to be designed around a corridor that could accommodate cable or GIL. The route remains the same for both technologies, but minor differences would be required at Wogden Foot
- Summer 2019 - planning application to be submitted
- Other topics discussed:
 - Ecological mitigation design and environmental enhancement discussions are progressing well
 - Consultation events in December 2018 attracted 103 attendees, including representatives from PLACE, Sustrans, TPT Conservation Volunteers, Grand Northern Rail, and ERTA as well as people from the local communities. 60 completed feedback forms were received from those attending with comments being mostly positive. Opposition was mainly linked to the project's potential impact on any future plans to re-open the railway line that ran along the route of the Trans Pennine Trail (TPT)
 - As reported at the previous meeting of the Stakeholder Advisory Group, the consultation has confirmed that the bulk of the opposition comes from Grand Northern Railway and rail enthusiasts who would like to see the railway re-opened. Grand Northern Rail has developed a website outlining its proposals for a roll-on/roll-off freight service and high-speed passenger service operating along the route of the TPT and running through the National Park. The Stakeholder Advisory Group was informed that this proposal does not form part of the 30-year transport plan published in February by Transport for the North. The VIP project team has had meetings with Transport for the North, the Sheffield City Region and Barnsley Council to discuss this topic. Significant works to both land and some of the remaining tunnel structures would be required. If the project was to go ahead, revisions to the proposed Peak VIP project would be only a small part of the engineering required. The project team is continuing to engage with key stakeholders on the issue and will address this question as the planning application is progressed

2.3 – Snowdonia National Park – 4CZ.1

The Stakeholder Advisory Group was given details of the current position and plans for the Snowdonia project, including:

- The termination of the connection contract by Horizon Nuclear Power has changed the capacity required by the circuits and so has a potential effect on the options considered to achieve the most efficient solution in Snowdonia. The Stakeholder Advisory Group noted the challenges in having to consider future possibilities given Horizon will be asking the Secretary of State to approve its application for a Development Consent Order for Wylfa Newydd even though it is not progressing with the development activity at this stage. This introduced a number of variables into the current consideration as it affects the specifications for conductors, the size of the tunnel, and the amount of construction work required. As a result, there were impacts on a broad range of activities from the planning application to how the work might be packaged for tender. The Stakeholder Advisory Group noted the additional workload and the team's plan to work through this in summer 2019
- Planning application – although no firm date exists at present, given the recent additional complications, the Stakeholder Advisory Group was informed that the team still intends to submit a planning application before the end of 2019. Both this Group and the Snowdonia Stakeholder Reference Group will be updated as matters progress.

3 – Update on the Landscape Enhancement Initiative (LEI)

Ben Smith from National Grid gave an update on progress with the LEI.

3.1 – Project application updates

Window 1 – three projects have been approved in High Weald AONB, North York Moors National Park, and Peak District National Park.

- Funds had been distributed, the projects are underway and monitoring has begun

Window 2 – seven projects have been approved in Clwydian Range and Dee Valley AONB, Dorset AONB, New Forest National Park, Peak District National Park, and Snowdonia National Park.

- Funds had been distributed

Window 3 – five projects have been approved in Cannock Chase AONB, Dorset AONB, Kent Downs AONB and North York Moors National Park.

- Funds were released in January 2019

Window 4 – five proposals had been submitted to Ofgem in October 2018 in Blackdown Hills AONB, Clwydian Range and Dee Valley AONB, New Forest National Park, and High Weald AONB.

- A decision has not been made yet, and there were elements to be clarified on two of the projects

Window 5 – two applications were received in Window 5 and the Approvals Panel met on 5 December 2019 to consider them.

Window 6 – ten Expressions of Interest had been received by the closing date of 15 February.

- Full applications must be received by 10 May and the Approvals Panel is due to meet on 3 July 2019. The review by Ofgem is scheduled to take place between 20 August and 16 November 2019, and final approval and the release of funds was expected to occur around December 2019 and January 2020.

Expressions of Interest for Window 7 will open in June 2019, and for Window 8 in January 2020.

A workshop was planned in Manchester in May to assist and encourage potential applicants, and invitations would be sent out shortly. The Stakeholder Advisory Group was shown a slide of the current application and approvals process. A potential revised process for future applications was also presented for consideration and discussion. Opportunities to fine tune the process were explained, with the ambition of having the improved process ready to implement within RIIO T2. The revised process would mean decisions on the allocation of funds made by National Grid which should see the process streamlined. There was general agreement that this was a positive move.

The Campaign for National Parks pointed out that the organisation had only learned of the previous workshop through another source, and suggested communication and advertising of future events needed to be improved.

Chris Baines reported back on initial positive discussions with the Esmee Fairbairn Foundation and Natural England on providing additional seed funding to help the identification and initial development of projects. A discussion about how to support the process followed. It was noted that if an obligation cannot be delivered in accordance with the funding conditions it may need to be recovered by National Grid. Ben Smith added that an applicant's unspent funds cannot be reallocated.

4 – Any other business and future meetings

4.1 – Stakeholder Advisory Group membership

Barney Wyld has taken the place of George Mayhew as Director of Corporate Affairs for National Grid.

4.2 – RIIO T2 and Ofgem/National Grid consultations

The VIP Project Manager, Michelle Clark, thanked all Stakeholder Advisory Group members who had responded to Ofgem's RIIO T2 consultation, in particular to questions 45 - 48 which related specifically to the VIP projects, and the funding process for the LEI. She noted that Ofgem was seeking information about whether a VIP programme in the future had interest and support, as well as comments about how it should be structured, managed, and refined. The Stakeholder Advisory Group was informed that Ofgem's conclusions will be published in May 2019. The Stakeholder Advisory Group discussed how 'willingness to pay' would be assessed, and when the results of the assessment could feed into the process.

It was noted that all Transmission Operators, including National Grid, have to make a draft RIIO T2 submission in July 2019. There will be a range of stakeholder engagement after that and a final submission is required in December. RIIO T2 will be a five-year control period commencing in 2021.

The Stakeholder Advisory Group noted the opportunity to engage later this year with National Grid on its RIIO T2 submission in the light of the data from the willingness to pay assessment work.

4.3 – AOB and Chairman's closing

Stakeholder Advisory Group members were encouraged to respond to National Grid's own consultation linked to RIIO T2 to help with the early identification of stakeholder priorities. Some further work on willingness to pay, looking at the costs on the basis of a household bill, should be completed in time for the next meeting.

The Chairman thanked the Stakeholder Advisory Group, National Grid and Camargue for all the work on a challenging meeting and a difficult decision.

4.4 – Future meetings

June - The next Stakeholder Advisory Group meeting will take place in late June. **[Post-meeting note: the meeting date has been confirmed as 2 July 2019.]**

The agenda will include:

- looking at National Grid's willingness to pay work,
- review of the planning application for the Peak District, and
- update on progress on the feasibility of a project in the North Wessex Downs.

October - A Stakeholder Advisory Group meeting is being planned for October with the intention of using the meeting to see early works on the Dorset VIP project. **[Post-meeting note: the meeting may take place in November depending on Group availability.]**