



The Planning Inspectorate

Application by North London Waste Authority for an Order Granting Development Consent for the North London Heat and Power Project

Agenda for issue-specific hearing

This document sets out an agenda and matters for discussion at the issue-specific hearing on the draft Development Consent Order (DCO) to be held on **Friday 18 March 2016**.

Venue:

The Artzone
1st Floor, 54-56 The Market Square
Edmonton Green Shopping Centre
Fore Street
London, N9 0TZ

Time: The hearing room will be available from 9.30am and the hearing will commence at 10am. It is expected to close by lunchtime, though of course we will continue after lunch if necessary.

Purpose of the Hearing

The purpose of the hearing is to consider only the drafting aspects of the draft DCO document including the proposed requirements, and draft s106 Agreement/Development Consent Obligation (DCOb). For the avoidance of doubt therefore, this hearing is not to consider the underlying issues arising from the application or the representations which have been made about them, and will be done on an entirely without prejudice basis. My decision as the Examining Authority to hold the hearing should not be taken to imply that I have reached any view at this stage about whether the Order should be granted.

From this, it follows that the hearing will be of interest mainly to those organisations who have a direct contribution to the drafting of the Order, and its implementation should it be granted, and for this reason the following bodies in particular are invited to attend:

- North London Waste Authority (the Applicant)
- London Borough of Enfield
- Greater London Authority
- Transport for London
- Thames Water Utilities Ltd
- Environment Agency
- Canal and River Trust

The hearing is likely to be of less interest to other interested parties, though of course they have every right to attend if they wish and are very welcome to do so.

The objectives of the hearing on 18 March 2016 are to:

- clarify any issues around how the draft DCO is intended to work, what is to be consented, the extent of the powers proposed and what requirements are proposed;
- identify any possible issues not yet covered by the draft DCO;
- establish or confirm the views of other interested parties as to the appropriateness, proportionality or efficacy of the powers and requirements proposed;
- consider the draft DCOb and the balance with proposed requirements in the draft Order.

In order to make the most productive use of the time, I have prepared a short agenda at Appendix 1, and a detailed list of points I intend to cover at Appendices 2 and 3.

Administrative arrangements

I would be grateful if parties intending to attend would give prior notice of who will attend, who will speak and which points they wish to address. In accordance with Rule 14(3) of the Infrastructure Planning (Examination Procedure) Rules 2010, any oral representations should be based on representations previously made in writing by the particular participant.

Please provide your Interested Party reference number in any communication and mark it for the attention of the North London Heat and Power Project Case Team.

Participants should note that after the hearing there is a deadline in the [Examination timetable](#) for the submission of written summaries of oral evidence and any other requested information (Deadline 3: Wednesday 6 April 2016).

Paul Hudson

Paul Hudson

Examining Authority

APPENDICES

APPENDIX 1 - Agenda for issue specific hearing on the draft DCO

APPENDIX 2 - For Agenda Item 2 – Structure of the submitted Order

APPENDIX 3 - For Agenda Item 3 – Draft DCOb dated October 2015

Agenda for issue specific hearing on the draft DCO

18 March 2016

1. Introductions, purpose of hearing into the draft DCO submitted with the application dated October 2015
2. Structure of the Order, taking Articles 1 – 38 and Schedules 1 - 16 in turn (see **Appendix 2**)
3. The draft DCOb (s106 Agreement) dated October 2015 (see **Appendix 3**)
4. Submission of revised draft DCO and subsequent timetable
5. Any other business

For Agenda Item 2 – Structure of the Order

COMMENTS BY EXAMINING AUTHORITY

Generally

Use modern language, for example 'must' rather than 'shall'.

Preamble

Update to refer to the 'single appointed person' and the appropriate parts of the Planning Act 2008 (PA 2008).

Reference to the special category land - *1st written questions 9.1.*

Article 2

"Ardra Road" – full postcode as in Advent Way?

"authorised development" – query 'not' in line 3.

"the book of reference" means the document certified by the Secretary of State as the book of reference for the purposes of this Order under article 33 (certification of documents and plans).

"code of construction practice" – as book of reference; the lengthy description after the word 'which' to the end is unnecessary.

"commissioning" – are these recognised tests? Is there an industry definition that could be used? Meaning of 'first waste fire' in line 1; 'achievement of reliability' isn't objectively verifiable.

The only places where 'commissioning' appears is in article 37 (see below), and requirement 7 which requires notice of 'commissioning' as an event rather than the tests in the definition. In this regard, would the event of commissioning not be marked by some sort of regulatory involvement?

"commence" – query 'site clearance' (see Planning Inspectorate Advice note fifteen: Drafting Development Consent Orders).

"design code principles" – as book of reference; the lengthy description after the word 'which' to the end is unnecessary.

"energy from waste facility" – 'the' rather than 'a' in line 2.

"environmental statement" – as book of reference.

"environmental commitments and mitigation schedule" – as book of reference; the lengthy description after the word 'which' to the end is unnecessary.

"the land plans" – as book of reference.

"maintain" – delete 'maintain' from the definition, query 'reconstruct, decommission, demolish, replace and improve'.

"Meridian Way" – full postcode as in Advent Way?

"order land" – Order land?

"the order limits" – the Order limits ?

"relevant planning authority" – delete 'in relation to – situated'.

"stage" – what power is provided to authorise the enabling works?

"temporary laydown area" – is part of plot number 21 also needed to cover the area of Works No 5 shown on Works Plan C_0009 Rev 00?

"the works plans" – as the book of reference.

Article 4

1st written questions 10.5.

(2)(b)(i) - suggest including 'subject to requirement 4'.

Article 5

(1) - what other terms of the Order are envisaged here? In what circumstances will the Order or an agreement (line 3) provide otherwise?

(2)(a) - apparatus needs defining in article 2 (see article 10 (4) also).

(3) - why does this not apply to the temporary laydown area and Ardra Road?

1st written questions 10.6

Article 6

(1) - the electricity generating station needs defining in article 2 (see also definition in requirement 1(4)).

What is the meaning and significance of 'managing the remainder of the authorised development'?

(2) - as the Order does not appear to require the undertaker to obtain permits and licences, is this necessary?

Article 7

1st written questions 9.3.

Article 8

(4) - query application of this paragraph in relation to compulsory acquisition powers.

Article 10

1st written questions 10.6.

(1)(f) - what is envisaged here given this article is concerned with streetworks?

Article 11

Specify which Works Nos this article and Schedule 5 is intended to cover – No 4?

Article 12

(1) - insert 'temporarily' after 'development' in line 2 (3).

(2) - the temporary footpaths referred to in paragraph (3) are not referred to in paragraph (2).

Article 13

(1) - insert 'within the Order limits' before 'and' in line 2 (see the EM).

(6) - provide a justification for requiring a deemed consent power.

1st written questions 10.10.

Article 14

Specify which Works Nos this article and Schedule 9 is intended to cover.

Article 16

Suggest paragraph (2) is placed after paragraph (5).

(7)(a) – is the reference to an 'urban development corporation' needed?

(8) - is this necessary given paragraph (6)?

Article 17

Which buildings are envisaged to which this article would apply and are there any not in the undertaker's ownership or control?

Article 18

(1) - land 'which may be affected by the authorised development' could be some distance from the Order lands and hence this definition appears to be too broad.

Article 19

(1) - reference is needed to Schedule 10.

1st written questions 10.12.

(4) – articles 23 and 27 in any event do not include the plots contained in Schedule 10.

Article 20

(1) – *1st written questions 9.2.*

(2) - there does not appear to be long-stop date when temporary use of land would cease, though article 27 (3) refers to 2 years.

Article 21

(1) - presumably this paragraph is subject to the protective provisions in Schedule 16?

(1)(a) - the Statement of Reasons explains that the suspension of rights is intended to be a temporary, principally during construction but this restriction is not applied in this paragraph.

(2)(a) - is 'erection' needed and what is the difference between this and 'construction'?

(2)(c) - add 'authorised by this Order'

Article 22

1st written questions 10.16.

Article 23

(1) and (2)(b) - in compulsorily acquiring existing rights, how do these paragraphs relate to article 21(1)(b) and Schedule 12?

Article 24

Do articles 19 and 21 cover the provisions of article 24 and which plots does this article refer to?

(5) - how does this paragraph relate to article 21(1)(b) and Schedule 12?

Article 26

(1)- does the right to appropriate air space over a building constitute a right over a street? What is envisaged?

What are the actual circumstances envisaged that this article is needed to cover for example the references in paragraph (3)(a) and (b)?

Article 27

(3) - what is the relationship to article 20(2)?

(4) - presumably reinstatement would also be subject to LPA approval?

Article 28

1st written questions 10.15.

(2) - what are the actual circumstances envisaged that this paragraph is needed to cover?

(3) - this paragraph should be combined with paragraph (13) as it is not appropriate to state that there are separate requirements in another provision.

(12) - given the coverage of the plots in (a), (b) and (c), what parts of the authorised development are left to be covered by paragraph (11)?;

Article 32

1st written questions 10.13 and 10.14.

Article 33

(1) - confirm that all documents and plans for certification are listed.

Article 37

Should the decommissioning of the energy waste facility be subject to requirement 20, and should this be the decommissioning of the proposed electricity generating station rather than commissioning? Why is this article necessary?

Article 38

1st written questions 10.9 and 10.10.

(3) - what is the justification for a deemed consent after 28 days? Should the word 'accepted' in the last line of this paragraph be 'approved'?

Schedule 1

1. (1) - state a maximum output of megawatts of electricity.

The works as described (in this and similar subsequent paragraphs this Schedule) are not actually shown on Works Plan C_0002 Rev 00; it would be more accurate to say the works would take place within the limits of deviation for Works No 1a on this plan.

The list of works comprising Works No 1a in the Schedule is inconsistent with those shown on Works Plan C_0002 Rev 00, the list in requirement 4 (1) and with drawing D_0001.

2. (d) - the list of works is not consistent with drawing D_0005.

1st written questions 10.6, 10.7 and 10.8.

3. - *1st written questions 10.11.*

What is the mechanism for judging whether such works would give rise to materially different environmental effects and who would make this judgement?

Schedule 2

1. (1) - combine with article 38?

(2) - justification needed for tailpiece amendments.

(4) - definition of "the electricity and heat generating station" should be put in article 2.

"enabling works" do not appear to be referred to in any of the requirements; what are the mitigation works, contaminated land, ground improvement works enabling works access referred to?

2. - *1st written questions 9.2.*

3. (3) - justification required for tailpiece.

4. - explain column 5 as the maximum levels of vertical deviation appear to be the same as the maximum heights expressed in column 4 plus existing ground level AOD.

1st written questions 10.5.

(1) - the list of works in column 1 do not appear to relate precisely to those in Schedule 1.

6. - and/or inappropriate for Order drafting.

This requirement should also contain a maximum tonnage of waste by the plant by the 700,000 tonnes per annum.

8. - place this after requirement 2?

10. (1) – what is the reference to stage 1a in the EM?

(1)(e)(f) - these are design details which belong more appropriately under requirement 3 than landscaping.

(2) - justification for tailpiece.

12. (3) - what is an 'access management scheme' as it does not appear to be defined anywhere, and what is its purpose in relation to requirement 8?

15. - the EM refers to an ecological management plan which does not appear in this requirement ; as drafted it is more concerned with landscaping matters than ecology.

(2) - this needs redrafting.

16. – *1st written questions 5.2 and 10.4.*

The justification in the EM refers to a mechanism for updating the CoCP which is not explicitly covered in this requirement; justification needed the tailpiece; does this requirement apply to Works Nos 5 – 7?

18. - this requirement could be handled in article 38 (4).

19. - this requirement needs to specify the actual pipe runs by reference to the submitted plans, and also the relationship to the DCO Obligation (s106 Agreement).

20. - *1st written questions 10.17.*

21. (1) - the requirement is for the submission of a decommissioning plan and therefore it is unclear why this (rather than the demolition itself) should be 'subject to obtaining the necessary consents and approvals' in line 1; is the criterion for ceasing operation waste management or electricity generation?

22. - *1st written questions 10.17.*

Schedule 3

1st written questions 10.9.

Schedule 5

Which Works are covered by this Schedule?

Schedule 6

Insert 'Temporarily ' before 'Suspended 'in the title?

It is difficult to understand where some of these footpath diversions are from the description in column 2.

Schedule 9

Word missing after 'Edmonton' in line 1.

Schedule 16

Protective Provisions – acceptability to statutory undertakers, Canal and River Trust and Environment Agency.

For Agenda Item 3 – Draft DCOb dated October 2015

COMMENTS BY EXAMINING AUTHORITY

Confirm that the draft 106 Agreement is a Development Consent Obligation (DCOb) pursuant to s174 PA 2008 (title page and article 3 for example).

Current position concerning agreement between the parties.

Article 1

“Commencement” – the definition is substantially different from that in article 2 of the draft DCO.

“Framework Construction Travel Plan” – ‘construction’ missing from the definition.

“Framework Operational Travel Plan” – ‘operation’ missing from the definition.

“Full Commercial Operations Date” – compare with definition of ‘commissioning’ in the draft DCO.

Schedule 3

1 - The notifications are largely covered by requirement 7 of the draft DCO.

3 - Reference needed to requirement 19 of the draft DCO.

5 - Is the servicing management plan related to the access management scheme referred to in requirement 12 of the draft DCO?