



3/18 Eagle Wing
Temple Quay House
2 The Square
Bristol, BS1 6PN

Customer Services: 0303 444 5000
e-mail: nlhpp@pins.gsi.gov.uk

North London Waste Authority

Your Ref:

Our Ref: EN010071

Date: 11 November 2015

Dear Ms Taylor

Planning Act 2008 (as amended)

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

Section 51 advice

The Secretary of State made the decision on 11 November 2015 that the application for the proposed North London Heat and Power Project has satisfied the acceptance tests under section 55 of the Planning Act 2008 (PA 2008). The Planning Inspectorate's acceptance checklist has been published on our website today. We also have the following observations in relation to the application. This letter contains advice to you provided under section 51 of the PA 2008.

General

The Inspectorate notes that in several of the application documents the terminology used does not reflect the PA 2008. For example, the appropriate term is compulsory acquisition rather than compulsory purchase (see particularly the Statement of Reasons and the CPO Roadmap document).

Development Consent Order

The Inspectorate has concerns over the lack of precision of an upper limit to the generating capacity in the application and the DCO in particular ('around 70 megawatts'). The Inspectorate therefore advises the applicant to consider setting an upper level of energy output consistent with the Environmental Statement (ES) by the time of the Preliminary Meeting in readiness for the start of the Examination.

Environmental Statement

The section 55 checklist confirms that the ES meets the minimum requirements set

out in Schedule 4 Part 2 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) (the EIA Regulations). However, we note the absence of an assessment of potential impacts on townscape resulting from the scheme. A justification supporting this approach is provided within the ES at paragraph 5.2.11 and states that no comments on the matter were provided in the Secretary of State's Opinion. This is incorrect. The Secretary of State's Opinion was quite specific in requesting that the ES includes such an assessment and provided its justification in support of the Opinion. It is also the case that the London Borough of Enfield commented on the importance of an assessment of townscape impacts within the ES. This may be a matter which the Examining Authority (ExA) will wish to pursue during the Examination.

No Significant Effects Report

The No Significant Effects Report (Habitat Regulations Assessment) satisfies the requirements of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. However, the Report does not include a screening matrix for the Epping Forest Special Area of Conservation (SAC). This appears to be an administrative error as the potential for effects on the SAC are considered in the Report. You may therefore also wish to submit the matrix before the Preliminary Meeting to avoid the ExA needing to request it during the Examination.

Section 42(1) (d)

The Consultation Report describes the processes carried out for the two stages of consultation for section 42 (1)(d) persons. For the phase one consultation, paragraph 3.2.1(d) says the applicant consulted persons who fall within one or more of the categories of section 44 (section 42 (1) (d)). Paragraphs 3.2.22 to 3.2.26 set out how these persons, collectively referred to as land interests, were identified through title investigations. These land interests are then set out in Appendix B2 of the Consultation Report. Paragraph 3.4.2 says letters of notification were sent to all section 42 consultees and specifically section 42(1)(d) land interests; a sample standard section 42 notification letter is contained in Appendix C2 of the Consultation Report. Paragraph 3.3.3 says all consultation materials were sent to all section 42 consultees (on a memory stick).

For phase two of the consultation a very similar process was carried out described in paragraphs 5.2.1(d), 5.2.21 to 5.2.23, 5.3.3, and 5.4.2; Appendix C2 of the Consultation Report contains a sample standard section 42 notification letter for this phase.

However, there are inconsistencies in the Consultation Report about precisely how the section 42 (1)(d) persons, in particular Category 3 owners, were identified and consulted on because:

1. Paragraph 3.2.28 covering phase one and paragraph 5.2.24 covering phase two seem to suggest that Category 3 owners were determined by the applicant as falling within the section 47 community consultation zone shown at figure 3.2 of the Consultation Report, which according to the map embraces nearly 29,000 properties. If so, it is unclear
 - (a) how the very much smaller number of Category 3 interests set out in both Appendix B2 of the Consultation Report and in the Book of Reference were identified by the applicant, and

(b) whether they were informed of the consultation by a specifically addressed section 42 consultation letter *and* a general newsletter under section 47, or *only* by the latter as could be interpreted from paragraphs 3.2.28 and 5.2.24 of the Consultation Report.

2. Appendix B2 of the Consultation Report has two categories of section 42(1)(d) consultees, those with full names and addresses and the date a consultation letter was sent to them, and those defined as section 47 (Category 3 owners) where in a larger number of cases there are no contact names nor the date given for a consultation letter being sent.

In addition, the presentation of the Category 3 interests in Part 2 of the Book of Reference falls short of the format prescribed by Regulation 7(1) (b) of the APFP Regulations: plots of land are listed but not names and addresses for service of persons who fall into Category 3 who in every case are stated as unknown. Some Category 3 interests appear to be more fully described in Appendix B2 of the Consultation Report, including an indication of where these are also reflected in the Book of Reference, though this is not consistently followed through. There are also inconsistencies between the persons listed as being consulted in Appendix B2 of the Consultation Report and those listed in the Book of Reference, and these are set out in annex 1 to this letter.

It is strongly recommended therefore that these deficiencies are remedied, firstly by confirming the definitive list of Category 3 persons, secondly revising Part 2 of the Book of Reference to meet Regulation 7 (1) (b) of the APFP Regulations, and thirdly providing an explanation for the inconsistencies set out above. Such a revised Book of Reference and explanatory note should be made available to the Inspectorate to inform the initial assessment of preliminary issues by the ExA ahead of the Preliminary Meeting. In addition, please note that all Category 3 persons need to be included in your section 56 notification in order that you can issue your section 58 certificate.

I trust that this advice is useful to you and will aid your preparation for examination of the application. If you have any questions about the content of this letter, please do not hesitate to contact me using the details provided.

Yours sincerely,

Stephanie Newman

Stephanie Newman
Case Manager

Annex I: Inconsistencies between the Consultation Report (AD05.01) and Book of Reference (AD04.03)

The applicant lists 's42(1)(d) consultees' in the Consultation Report highlighting those in yellow that should be included in the Book of Reference. Although the following are highlighted they have not been included in the Book of Reference, and no justification is given for their omission:

- Fred Liebethuth Ltd (Identified during Phase Two consultation)
- CityLink Ltd (Identified during Phase Two consultation)
- Smart Solutions (Recruitment) Ltd (Identified during Phase Two consultation)

Additionally, the applicant identified the following s42(1)(d) consultees as the successors of the Central Electricity Generating Board during Phase One and Two consultation (Appendix B2 of the Consultation Report):

- International Power Ltd
- E.ON UK Plc
- National Grid Electricity Transmission Plc
- Magnox Limited

However, only E.ON UK Plc and National Grid Electricity Transmission Plc are included in the Book of Reference (Part One).

The applicant lists Category 3 owners in Appendix B2 of the Consultation Report (separately from other s42(1)(d) consultees – see advice above). Although the following Category 3 persons are highlighted they have not been included in the Book of Reference, and no justification is given for their omission:

- Heal and Son Ltd (Identified during Phase Two consultation)
- Ely Estates (Identified during Phase One and Two consultation)
- The sub-tenants of Wittington Holdings Investments Ltd (Identified during Phase Two consultation) (Wittington Holding Investments are listed in Part One of the Book of Reference but not Part Two)
- The North London Chambers of Commerce (Identified during Phase One and Two consultation)
- Northumbrian Water Ltd (Identified during Phase One consultation) (included in Part One of the Book of Reference but not Part Two)
- The Owner of land at Advent Way (identified during Phase Two consultation)
- The owner of Unit 1, Ground Floor, 20, Kynoch Road (identified during Phase one and two consultation).

The following Category 3 owners are listed in Appendix B2, and are intentionally excluded from the Book of Reference; however no justification is given for their exclusion:

- 40 Grosvenor Road Edmonton N8 8RE
- 8 Green Dragon Lane London N21 2LD
- 31 Goodmayes Avenue Goodmayes Ilford Essex IG3 8TN

- 24 Kilmarnock Gardens Dagenham Essex RM8 2RE
- 49C Birchington Road London N8 8HP
- McNicholas Constructions (Holdings) Ltd

Conversely, there are Category 1, 2 and 3 owners listed in the Book of Reference which have not been included in Appendix B2:

- The River Lea Anglers Club (Part One of the Book of Reference). Appendix B2 of the Consultation Report (Doc AD05.01) states that the applicant is negotiating with River Lea Anglers Club. However the River Lea Angler's Club is not listed as a s42(1)(d) consultee nor has the applicant provided any evidence to support that they are negotiating with the River Lea Anglers Club.
- Department for Environment, Food and Rural Affairs (Part One of the Book of Reference)
- Unit F, Pegamoid Site, 32 Nobel Road (Part Two of the Book of Reference)
- Land and buildings lying to the North of North Circular, Road, Edmonton (Part Two of the Book of Reference)

Please also note:

- The company Zesifix Ltd identified during Phase One consultation appears to be a misspelling of Zefilix Ltd (Zefilix Ltd is identified during Phase Two consultation and listed in Part One of the Book of Reference).
- The Mayor Alderman and Burgesses of the London Borough of Waltham Forest are identified as Category 3 owners during Phase One and Phase Two consultation but the plots have not been specified. Part Two of the Book of Reference lists the Mayor Alderman and Burgesses of the London Borough as owners of land forming and lying to the North and South of Angel Road, Enfield but the entry does not specify which London Borough.
- Paribas Securities Services Trust Company (Jersey) Limited, BNP Paribas Securities Services Trust Company Limited and Pratahchhand Mulchandani and others are listed in both the Book of Reference and Appendix B2 of the Consultation Report, however in the Book of Reference the London address is Unit D, Eley Road whilst in Appendix B2 of the Consultation Report the address is 18 Eley Road, Eley Estate, Edmonton, London, N18 3BB. In the Book of Reference the 'No 18, Eley Road' address is listed as having unknown owners.
- The applicant concludes during Phase One consultation that Royal Mail's interest within the red line boundary has been transferred to British Telecommunications Plc and is therefore not included in the Book of Reference. However during Phase Two consultation Royal Mail was identified as having an interest under s42(1)(d) (Appendix B2) but this interest is not listed in Part One of the Book of Reference.
- Plot 33 is described in the Book of Reference as at the north west edge of Edmonton Eco Park, but on the plan it appears to be the north east edge.

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.