

From: planning, North London [<mailto:northlondonplanning@environment-agency.gov.uk>]
Sent: 23 March 2016 15:10
To: NI Enquiries; Newman, Stephanie
Cc: Beaumont, Fiona; Amor, Charlotte
Subject: Environment Agency Written Representation – North London Heat and Power Project

Dear Ms Newman,

Please find attached our formal written representations. A summary of this letter is detailed below.

The Environment Agency has a responsibility for protecting and improving the environment, as well as contributing to sustainable development.

As part of our regulatory role we must ensure that the design, construction and operation of the NLHPP reduces environmental impacts, mitigates unavoidable impacts and maximises positive environmental opportunities.

An Environmental Permit is required under the Environmental Permitting (England and Wales) Regulations 2010. This process is separate from the DCO and has been initiated by the applicant.

In addition, the applicant is also required to apply for a 'Flood Defence Consent' (FDC) for any works in, under, over or within 8 metres of the top of bank of any watercourse designated as a 'main river' as per the requirements of the Water Resources Act 1991 and the Thames Land Drainage Byelaws 1981. The applicant has acknowledged the requirement for a Flood Defence Consent and confirmed to us that they will not be seeking to disapply this requirement.

Areas covered within our formal response include;

- **Flood risk & mitigation**

We are broadly content with the level and detail of the Flood Risk Assessment and proposed mitigation.

- **Bridges**

We have no objections to the principle of the proposed bridge over the Enfield Ditch (main river), although further details are required. The applicant will need to demonstrate free passage of mammals and allow connectivity of riparian habitats.

- **Ecology**

We welcome the plans to improve and enhance the Enfield Ditch and the proposed lighting strategy. However, we wish to see a requirement to maintain the riparian buffer zone.

- **Water Framework Directive**

- **Groundwater protection and land contamination**

The site is located within a Source Protection Zone for public water supplies. The proposal includes the excavation of lower permeability strata that overlies the Chalk aquifer thereby increasing the vulnerability of the underlying aquifer.

Article 4 – we would like article 4 to contain a proviso that no vertical deviation can take place unless approved by the Environment Agency following submission of a risk assessment and method statement showing that there is no increased risk to groundwater. This is due to concerns that we have regarding the effect on groundwater of any vertical deviation. The applicant has agreed to this in principle and has said that they will provide proposed additional drafting, which we are currently waiting for.

Requirement 14 - we have asked the applicant to amend requirement 14 relating to contaminated land and groundwater to, amongst other things provide for a verification report and on-going monitoring. Discussions have been taking place about this with the applicant, who has provided some suggested alternative wording, which we are currently reviewing.

We hope that the Inspectorate find these comments useful.

Regards

Andy Goymer

Planning Advisor - North London

Environment Agency | Hertfordshire & North London

☎ 0203 025 5486 | ✉ northlondonplanning@environment-agency.gov.uk

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Stephanie Newman
The Planning Inspectorate
The Square Temple Quay
Bristol
Avon
BS1 6PN

Our ref: NE/2016/124771/01-L01
Your ref: EN010071
Date: 23 March 2016

Dear Ms Newman

Application for the North London Heat and Power project comprising the construction, operation and maintenance of an electricity and heat generating station of around 70 megawatts at the Edmonton Ecopark in North London, with associated development including a resource recovery facility for associated waste management purposes, including household recycling; and a new visitors centre, Ecopark House

Edmonton Ecopark, Advent Way, Edmonton, N18 3AG

Please find below our Written Representation for this Development Consent Order on behalf of the Environment Agency.

Following the submission of our Relevant Representation (RR-011) on 22 December 2015 we have continued to work with the applicant in respect of the issues raised. The purpose of these Written Representations is to provide an update on our Relevant Representations and provide further information where appropriate.

The Role of the Environment Agency

The Environment Agency has a responsibility for protecting and improving the environment, as well as contributing to sustainable development.

Our work helps to support a greener economy through protecting and improving the natural environment for beneficial uses, working with businesses to reduce waste and save money, and helping to ensure that the UK economy is ready to cope with climate change. We will facilitate, as appropriate, the development of low carbon sources of energy ensuring people and the environment are properly protected.

We have three main roles:

We are an **environmental regulator** – we take a risk-based approach and target our effort to maintain and improve environmental standards and to minimise unnecessary burdens on business. We issue a range of permits and consents.

We are an **environmental operator** – we are a national organisation that operates locally. We work with people and communities across England to protect and improve the environment in and integrated way. We provide a vital incident response capability.

Cont/d..



We are an **environmental advisor** – we compile and assess the best available evidence and use this to report on the state of the environment. We use our own monitoring information and that of others to inform this activity. We provide technical information and advice to national and local governments to support their roles in policy and decision-making.

One of our specific functions as environmental regulator, operator and advisor is as a Flood Risk Management Authority. We have a general supervisory duty relating to specific flood risk management matters in respect of flood risk arising from Main Rivers or the sea.

As an environmental regulator we must ensure that the design, construction and operation of the North London Heat and Power project reduces environmental impacts, mitigates unavoidable impacts and maximises environmental outcomes. An Environmental Permit will be required under the Environmental Permitting (England and Wales) Regulations 2010. This process is separate from the DCO.

In addition to the DCO and the environmental permit, the applicant will also be required to apply to the Environment Agency for a 'Flood Defence Consent' (FDC) for any works in, under, over or within 8 metres of the top of bank of any watercourse designated as a 'main river' as per the requirements of the Water Resources Act 1991 and the Thames Land Drainage Byelaws 1981. For this application this includes the Salmons Brook, Enfield Ditch and Lee Navigation.

The applicant has acknowledged the requirement for a Flood Defence Consent within paragraph 5.17.3 of the Explanatory Memorandum, AD03.02, dated October 2015.

Please note that from 6 April 2016, the FDC regime will move into the Environmental Permitting Regulations and become Flood Risk Activity Permits. The charges for the new Permits will be different and some lower risk activities may be Excluded or Exempt from the Permitting Regulations. The applicant is advised to contact us at PSO-Thames@environment-agency.gov.uk for more details.

Current position

Although we have no objection to the application in principle we still have some outstanding concerns. However, through our ongoing discussions with the applicant we are confident that these matters can be resolved.

As detailed within our Relevant Representations, the environmental constraints of the site require careful thought within the design. This is to ensure that the new facility does not increase flood risk on or off site and where possible reduces flood risk over all, that groundwater is protected and that the three watercourses, defined as 'main river', that run within or adjacent to the site boundary are not adversely affected. The development must comply with all relevant policy and legislation including the National Policy Statement for Energy (EN-1) and the Water Framework Directive (WFD).

As explained above, in addition to the DCO, the applicant is also required to apply for an Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2010. We recommended 'twin tracking' of the DCO and permitting process to ensure the two regulatory regimes do not overlap or contradict each other. We are pleased to note that the applicant has taken our advice in this respect and we have received the application for the Environmental Permit(s) which will allow the permitting application to run in parallel to the DCO.

We are continuing to work with the applicant to develop a joint Statement of Common Ground (SoCG). The latest draft has been submitted to us by the applicant and is currently under review.

Structure of Environment Agency Response

In the representations that follow, we identify the issues we would like the Examining Authority to take into account when considering this DCO application.

We have suggested where a requirement could be secured in some cases, as a solution to overcome an issue. In other cases we consider further information is required to inform the decision maker and we will seek to obtain this from the applicant prior to the examination.

We may need to add to or amend the matters detailed below as further information is provided throughout the examination.

1.0 – Flood risk and mitigation

There are a number of areas of floodplain across the site. However, engineering solutions can be applied to both protect the site from flooding and prevent the cause or exacerbation of flood risk elsewhere.

1.1 – Assessment of flood risk

The site, as shown on our published flood maps, is at risk of flooding from a range of flood events. The majority of the site lies within Flood Zone 2 (the 1 in 1000 year flood event). There are also areas of the site that lie in Flood Zone 3 (the 1 in 100 year flood event). Within any assessment, the applicant is required to consider the effects of climate change on flood risk.

We have reviewed the submitted Flood Risk Assessment (FRA) produced by Amec Foster Wheeler, reference AD05.04, dated October 2015. We consider the document to comply with the requirements of the National Policy Statement for Energy (EN-1), the National Planning Policy Framework (NPPF) and the Planning Practice Guidance and represent an accurate assessment of the flood risks on site.

Two areas of the site have been identified within the FRA as requiring floodplain compensation to mitigate against the increased risk of flooding caused by development within the floodplain. These areas have been calculated correctly. In order to prevent flooding on site, and elsewhere, the development as permitted should be carried out in accordance with the approved FRA and the compensatory flood storage measures detailed within.

The mitigation measures should be fully implemented in accordance with the timing/phasing arrangements to be agreed, which must be prior to occupation, or within any other period as may subsequently be agreed, in writing, by the Planning Inspectorate.

1.2 – Climate Change

Our Relevant Representation (RR-011) advised that, whilst the FRA submitted was correct at the time of writing, at the time of submission and at the time of review, new guidance on climate change was due to be published which could prompt further investigation. The new guidance, [Flood risk assessments: climate change allowances](#), was published on 19 February 2016.

Following the publication we have considered the likely impact this revised climate change guidance would have on the proposed development. We advise that the change in guidance is unlikely to have a significant effect on the findings of the existing FRA.

To add further detail, the superseded guidance required the applicant to make an assessment of flood risk up to and including the 1 in 100 year + 20% climate change flood event. As the site lies predominantly in Flood Zone 2 and the development type is classified as 'less vulnerable' by [Table 2](#) of the National Planning Practice Guidance, [Flood Risk and Coastal Change](#) (section 25), the new guidance would require the applicant to make an assessment of flood risk up to and including the 1 in 100 year + 25% climate change flood event. As a result, we are of the opinion that the assessment and findings of the existing FRA remain valid and can continue to be used to support the planning application.

2.0 – Bridges

The applicant proposes improvement works to the existing bridge across the Lee Navigation from Ardent Way and a new bridge across the Enfield Ditch from Lee Park Way. Any works will need to be sympathetic to the water environment and riverside habitat. These works will also require Flood Defence Consent (FDC) under the Water Resources Act 1991 and the Thames Land Drainage Byelaws 1981. The applicant will also need to consider the updated River Basin Management Plan ([RBMP](#)) and the Water Framework Directive (WFD). We will not permit works that have an unacceptable impact on the river corridor.

2.1 – Existing southern access bridge

The application includes improvement works to the existing bridge. The proposed extension is acceptable from a flood risk perspective. It has been demonstrated that the works have been incorporated into the proposed floodplain compensation. Any detailed design of structures impacting on the watercourse will need to demonstrate that it complies with the requirements of the WFD.

2.2 – New eastern access bridge

Whilst we do not object to the principle of the proposed new bridge over the Enfield Ditch, referred to as the 'eastern watercourse crossing', we will require further detailed plans before we can agree to the final design.

The bridge, as proposed, is acceptable from a flood risk perspective because the proposed soffit level is high enough and the abutments are set outside of the floodplain. However, the abutments, where feasible, should be set back further from the river bank to allow for the free passage of mammals along the watercourse and riverbank and allow connectivity of riparian habitats.

These matters can be managed under the requirements of the required FDC.

3.0 – Ecology

3.1 – Water Framework Directive (WFD)

The Environment Agency is the key regulatory authority for implementing and delivering the requirements of the WFD. The purpose of the WFD is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater. This directly concerns aquatic ecosystems, terrestrial ecosystems and wetland dependent on water.

The WFD promotes sustainable water use, based on long term protection of available water resources. It aims to enhance the protection of the aquatic environment, through the progressive reduction of discharge, emissions and losses of the priority hazardous substances. It ensures the progressive reduction of pollution of groundwater, as well as contributing to the mitigation of flood and droughts.

The Environment Agency has a duty to exercise its functions so as to secure compliance with the requirements of the WFD. EN-1 requires the Secretary of State to be satisfied that the proposal has regard to the RBMP and meets the requirements of the WFD.

We recognise that the North London Heat and Power project aims to provide betterment from the current facility in terms of drainage and potential contamination to the water environment.

To comply with the WFD and the RBMP the applicant should demonstrate that the proposals would not have an adverse affect on the current status of the waterbody. It should also be demonstrated that works would not prevent future improvements being made. Where possible the applicant is encouraged to undertake works that will contribute to the long term aim of improving the status of the waterbody.

Improvement works identified within the RBMP include the naturalisation of the hard-engineered river banks. The submitted consultation report, ref: AD05.01, dated October 2015, explains that it is not practical to naturalise the Salmons Brook as it is adjacent to the utility primary distribution corridor and that the stability of the bank must be maintained.

To ensure compliance with the WFD, details of any landscaping works along the river corridor will need to be submitted to, and approved in writing by the relevant authority, in consultation with the Environment Agency, prior to works being carried out on site. We request that this commitment be set out within the Environmental Commitments and Mitigation Schedule (AD06.03).

3.2 – Proposed enhancements

We welcome the plans to improve and enhance the Enfield Ditch. The proposal to remove the existing scrub alongside the Enfield Ditch and the creation of a landscaped riparian buffer zone is acceptable providing it is continuous and planted with appropriate native species as specified in AD06.02_ES_Vol_2 p118 5.6.11.

The lighting strategy outlined within AD06.02_ES_Vol 1, is appropriate and should ensure reduced light output from the site and avoid impact on bat corridors. Bat boxes are to be put in on the site. The development must implement these strategies to ensure minimised impact on bat communities and maintain a 'dark corridor' along the river channels. This work is detailed within the Environmental Commitments and Mitigation Schedule (ECMS), AD06.03_ECMS.

We wish to see a requirement provided in the DCO to maintain and enhance the biodiversity along the river corridor along the following lines.

Riparian buffer zone

A riparian buffer zone of at least 8 metres must be maintained along the banks of all of the river / ditch channels that run alongside the site (Lee Navigation, Salmons Brook and Enfield Ditch). This will ensure that there is a green corridor of valuable riparian habitat.

We would expect to see a separate reference within the Environmental Commitments and Mitigation Schedule for the identification and protection of the buffer zone for all main rivers within the site boundary. Further details should be included for the protection and enhancement during each stage of the development. The buffer zone should be clear of all built development including, where feasible, hard standing, access roads and the abutments for proposed bridges.

3.3 – Green infrastructure

We are pleased to see that, following our advice, the applicant has included green and brown roofs into the design. In addition to the benefits that they offer to drainage, green and brown roofs provide valuable ecological benefits. We recommend that further green areas should be implemented wherever possible to allow the continuity of potential habitats across the site, as stated in AD06.02_ES_Vol_2 p118 5.6.11(g).

3.4 – Invasive Species

It is recommended that, in line with the Environmental Statement Volume 3, paragraph 1.6.7 (k), an Invasive Species Management Plan is produced. The plan should detail the proposed removal or long-term management required to prevent the spread of invasive species during all stages of development. The plan should include both the site and temporary laydown area.

4.0 – Groundwater protection and land contamination

The National Policy Statement for Energy (EN-1) requires applicants to consider the effects of the proposed development on the water environment, including groundwater, and mitigate against any detrimental impacts. Applicants will also need to comply with the requirements of the WFD and the RBMP.

The site lies within Zone 1 of a groundwater source protection zone (SPZ1). Groundwater protection zones protect water abstracted for public supply and so they are vulnerable to pollution. The demolition and construction phases have the potential to mobilise contaminants, increase the turbidity of groundwater, create alternative pathways or change water quality. This is particularly important given the sensitive nature of the site.

4.1 – Foul and surface water drainage

The draft DCO includes a requirement relating to surface and foul water drainage (requirement 13). We have no objections to the wording proposed within this requirement.

4.2 – Land and groundwater affected by contamination

We are satisfied with the principles of the remedial options submitted to deal with the risks to controlled waters posed by contamination at this site. However, further details will be required within amendments to Requirement 14 in order to ensure that risks are appropriately addressed prior to development commencing.

The Environmental Statement indicates the presence of polluting substances from the previous uses. The proposed activity includes the excavation of lower permeability strata that overlies the Chalk aquifer, thereby increasing the vulnerability of the underlying aquifer which the public water supplies abstract from.

The proposed wording under requirement 14 of the draft DCO does not address all of our concerns. The remedial strategy required to be submitted does not include a

requirement for a verification plan, further groundwater monitoring or a verification report that demonstrates that the remedial measures have been carried out.

We have asked the applicant to amend requirement 14 relating to contaminated land and groundwater to provide for a verification report and on-going monitoring. Discussions have been taking place about this with the applicant, who has provided some suggested alternative wording, which we are currently reviewing.

The amendments to requirement 14 will need to provide for:

Verification plan

A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Verification report

A verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation, which shall be submitted to and approved, in writing by the relevant authority in consultation with the Environment Agency. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Long-term monitoring

The long-term monitoring and maintenance plan in respect of contamination should include a timetable of monitoring and the submission of reports. It should include details of any necessary contingency action arising from the monitoring. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved should be submitted to and approved in writing by the relevant authority in consultation with the Environment Agency.

Unsuspected contamination

If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a remediation strategy detailing how this unsuspected contamination shall be dealt with and obtained written approval from the relevant authority in consultation with the Environment Agency. The remediation strategy shall be implemented as approved.

4.3 - Piling

Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the relevant authority, in consultation with the Environment Agency, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. Weekly in situ groundwater monitoring is recommended during the deep ground works as part of a watching brief (for turbidity and migration of pollution) The requirement for a piling method statement has been included within the ECMS, AD06.03.

4.4 - Lateral and vertical limits of deviation

Article 4 of the DCO states that the undertaker may deviate vertically to any extent downwards as may be necessary, convenient or expedient. We have concerns regarding vertical deviation as parts of the site will already be close to the groundwater table, within a source protection zone 1, used for the abstraction of water for public consumption.

We would like article 4 to contain a proviso that no vertical deviation can take place unless approved by the Environment Agency following submission of a risk assessment and method statement showing that there is no increased risk to groundwater. The applicant has agreed to this in principle and has said that they will provide proposed additional drafting, which we are currently waiting for.

5.0 – Access to Environment Agency Dosing Station

The Environment Agency own and maintain a Dosing Station on the southern south of the site. Protection of this access is provided for in the protective provisions.

6.0 – Emergency Incident Response Plan

The applicant is not the operator of any of the current permitted activities on the site. An incident on site during the construction phase has the potential to impact on the current permitted operations on the site – this could have major implications for the site and impact on how North London Waste Authority (NLWA) and London Waste would manage wastes through the current permitted operations. The Code of Construction Practice (CoCP) document (AD05.12), should be updated to include an Emergency Incident Response Plan. It is important that the applicant consult with the current site operators and minimise the risk of the construction phases impacting on the current permitted operations on the Edmonton Eco Park.

7.0 – Protected Provisions

The applicant has confirmed that they are not seeking to disapply the Water Resources Act 1991 or any byelaws, so the protective provisions only need to contain provision for protection of access to the dosing station. The other provisions do not need to be included. If the applicant decides that they do wish to disapply the Water Resources Act 1991 or any byelaws, some amendments would need to be made to the protective provisions.

Draft Protected Provisions:

PART 1

Protection of Environment Agency

1. – (1) The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the Agency.
(2) In this part –
“1973 Transfer Rights” means a right of way over parts of plots 1, 30 and 31 (as shown on the land plans) pursuant to a transfer dated 19 January 1973 as detailed in registered title number MX410055;
“Agency” means the Environment Agency;
2. – The undertaker must not in the exercise of the powers conferred by this Order unreasonably prevent the Agency’s access to and use of the dosing station adjacent to Salmon’s Brook in the vicinity of the southern entrance to the Edmonton EcoPark except where construction and operation of the authorised development reasonably requires interference with or obstruction of the free,

uninterrupted and safe use of the 1973 Transfer Rights in which case a suitable alternative access shall be agreed with the Agency and provided prior to and for the duration of any such interference.

3. – Any difference or dispute arising between the undertaker and the Agency under this Part of this Schedule shall, unless otherwise agreed in writing between the Agency and the undertaker, be referred to and settled by arbitration under article **Error! Reference source not found.** (arbitration).

I hope that these comments are helpful in setting out the details for the examination. If you have any questions please contact me on 0203 025 5486 or email me at northlondonplanning@environment-agency.gov.uk.

Yours sincerely

Mr Andy Goymer
Planning Advisor

Telephone: 0203 025 5486

E-mail: northlondonplanning@environment-agency.gov.uk

Address: Environment Agency, Ergon House, Horseferry Road, London SW1P 2AL