

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

Planning Inspectorate Ref: EN010071

Comments on WRs, LIRs and responses to ExA's first written questions on behalf of:

Thames Water Utilities Limited (TWUL) registration identification number 10016799

Introduction

As set out in TWUL's Written Representations, Plots 16, 18, 19 and 20 are owned by TWUL and are stated to be required for the purposes of a temporary laydown – Works No 5. The draft DCO sets out that these works involve:

- (i) Areas of hardstanding*
- (ii) fencing, hoarding etc;*
- (iii) security facilities*
- (iv) vehicle parking*
- (v) office and staff welfare accommodation*
- (vi) storage, fabrication, laydown area*
- (vii) foul and surface water storage/attenuation and pumps*
- (viii) utility works*
- (ix) the creation of access from Lee Park Way; and*
- (x) restoration of the area."*

The land in question is TWUL retained Operational Land and forms part of the land associated with the William Girling Reservoir. The site is secured for security and health and safety reasons and there is no public access.

TWUL's retained operational land can only be released for other uses should it be proven that it is not required either now or in the foreseeable future for Thames Water's operational use. However, Thames Water are currently co-operating with NLWA in this respect and TWUL's operational clearance request under the OFWAT Guidance Note (April 1996) "Disposal of Land by Appointed Companies" under the Water Act has been submitted but has not yet been granted by TWUL. As such this plot has not yet been declared surplus to operational requirements for the NLWA DCO use (which will last a number of years).

If clearance is forthcoming TWUL will require the land to be reinstated to its present condition, including the same ground levels, once it is no longer required by the applicant. However, TWUL has not been provided with a detailed restoration plan setting out an agreed methodology/specification for the return of the land to its current condition and levels.

This document sets out TWUL's comments on the Local Impact Report and certain other parties' Written Representations and responses to the ExA's first written questions. In summary, TWUL objects to requests that the land required for the temporary laydown be reinstated so as to benefit the future Meridian Water development by making the land suitable for its drainage. TWUL also objects to requests that the land required for the temporary laydown be designated as public space when it is currently private. These requests do not satisfy the legal or policy tests because they are not necessary to enable the North London Heat and Power Project to proceed, they are not relevant to the development to be permitted by the DCO and they are not reasonable.

LB Enfield LIR

Appendix A of the LIR provides some suggested changes to Draft DCO. TWUL strongly object to proposed change 3.

The LB Enfield proposed change 3 states: “3. Schedule 2, additional paragraph:

Temporary Laydown Area

“23. — (1) The restoration of the Temporary Laydown Area shall be in accordance with a scheme submitted to and approved by the relevant planning authority. No works of this stage of the development shall take place prior to the approval of the scheme.

(2) The scheme referred to paragraph (1) shall include details of the following—

(a) suitable soft landscaping;

(b) a Sustainable Urban Drainage Scheme;

(c) compensatory flood storage.

(3) The relevant stage must be carried out in accordance with the details approved pursuant to requirement 23(1)”

Paragraph 6.89 of the LIR explains that LB Enfield are proposing change 3 to meet strategic objectives for open space and flood risk mitigation in association with the regeneration of the Meridian Water site. The regeneration of the Meridian Water site is totally unrelated to the NLWA North London Heat and Power Project. It is therefore unreasonable to try and secure strategic objectives for the regeneration of the Meridian Water site from the reinstatement of the Temporary Laydown Area which is within the ownership of TWUL and is retained operational land associated with the William Girling Reservoir.

Paragraph 6.90 of the LIR goes on to state that there is a “*current lack of commitment for the reinstatement of the area associated with the flood storage needs of the Meridian Water regeneration proposals*”. The conclusions at paragraph 7.3 also state: “*Lack of an appropriate strategy for the Temporary Laydown Area in terms of its restoration following the completion of the project, with particular regards to the lack of an appropriate Sustainable Urban Drainage Scheme and potential flood compensation measures for the Meridian Water regeneration development.*”

The flood compensation measures for the Meridian Water regeneration development does not form any part of this NLWA application and the most that needs to be considered here is that the application does not prejudice the role that this land may have for those longer term purposes. As the flood relief is not needed for the NLWA scheme it would not be permissible for the current scheme to make any provision for the flood relief potential of the land to facilitate the regeneration of the Meridian Water site for housing development.

Such a requirement as proposed by the LB Enfield proposed change 3 does not accord with planning law or policy.

It is a long held requirement of planning law (see *Newbury DC v Secretary of State for the Environment* [1978] 1 WLR 1241) that conditions must 'fairly and reasonably' relate to the permitted development. Here there is no connection between the development as proposed and a requirement to make this site more suitable for the drainage of the Meridian Water development and therefore there is no such relationship. It is also a fundamental requirement of planning law that conditions must not be manifestly unreasonable. An

example of such a condition is one which seeks to achieve purposes for which compensation would otherwise be payable. The only way that the Council could seek to achieve these requirements otherwise would be by agreement or through the use of compulsory purchase powers, for which compensation would be payable.

In relation to planning policy paragraphs 203-204 of the NPPF state:

“203. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

204. Planning obligations should only be sought where they meet all of the following tests:

- *necessary to make the development acceptable in planning terms;*
- *directly related to the development; and*
- *fairly and reasonably related in scale and kind to the development.*

205. Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.

206. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.”

Such a condition as proposed to be attached to the draft DCO by LB Enfield proposed change 3 is not necessary to enable the North London Heat and Power Project to proceed; is not relevant to the development to be permitted and is not reasonable. TWUL strongly object to such a condition and respectfully request that it is not incorporated into the DCO.

Response to Question 4.3 by the Lee Valley Regional Park Authority (LVRPA) & LVRPA Written Representations

The LVRPA response to Question 4.3 recognises that the Temporary Laydown Area is not “*managed by the Authority or available for public recreation*” as it is retained operational land associated with the William Girling Reservoir. However, the LVRPA response and their Written representations raise similar comments as LB Enfield in their LIR in relation to reinstatement. The LVRPA response to Question 4.3 sets out that: “*The LVRPA has therefore proceeded in its discussions with the NLWA on the basis that if the Temporary Laydown Area has to be located in the Park on Thames Water land then consideration should be given to the overall strategy for the future reinstatement and ecological enhancement of the site and its design for use as recreation and flood alleviation purposes both as part of the Meridian Water development and as part of the Regional Park. This would be compatible with the Park Authority’s Area Proposals for this section of the Regional Park.*”

As stated above in response to LB Enfield LIR, Thames Water consider that such a requirement for recreation and flood alleviation in association with the Meridian Water development/Lee Valley Regional Park is not necessary to enable the North London Heat and Power Project to proceed; is not relevant to the development to be permitted and is not reasonable.

Response to Question 4.1 by Canal & River Trust

The Canal & River Trust response states: *“The Trust considers the Temporary Laydown Area should only be used to the extent that “laydown” cannot be accommodated within the wider waste handling site. The location of the Temporary Laydown Area has great prominence in its juxtaposition with the River Lee Navigation and the wider Lee Valley area and, if it is considered appropriate to permit such temporary use, the Trust considers the permission should both specify the date upon which such use must cease, and provide for appropriate mitigation measures to minimise the visual impact upon the Navigation. Likewise, when the use of this area is completed, the Trust would request that stringent requirements for reinstatement be imposed, to ensure the area is then made available for recreational use.”*

As stated above in response to LB Enfield LIR, Thames Water consider that such a requirement for the site (Thames Water retained operational land) to be made available for recreation upon reinstatement fails to meet the legal or policy tests as is not necessary to enable the North London Heat and Power Project to proceed; is not relevant to the development to be permitted and is not reasonable.