

The Planning Inspectorate
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Your Ref
EN010071 / 10031939
Our Ref
MSW/ADW/101314.0035
Date
22 August 2016

By Email NLHPP@pins.gsi.gov.uk

FAO Paul Hudson, Examining Inspector

Dear Sir

EN010071: Application by North London Waste Authority for an Order granting Development Consent for the North London Heat and Power Project ('the Proposed Development')

We write on behalf of our client, Transport for London ('TfL'), interested party reference 10031939, in response to the Planning Inspectorate's Rule 17 letter of 29 July 2016 ('the Rule 17 letter'). That letter requested confirmation of whether TfL's outstanding objection to compulsory acquisition proposals contained in the draft Order, and affecting TfL's interests, is maintained or withdrawn.

Whilst TfL does not object in principle to the Proposed Development, its concerns about the impact that the Proposed Development will have on its land and its interests in land have not been resolved and for this reason TfL maintains its objection.

TfL refers the Examining Inspector to its comments previously provided to the Planning Inspectorate, particularly under cover of the summary of oral submissions submitted on 15 July 2016 following the Issue Specific Hearing on the draft Development Consent Order and the Compulsory Acquisition Hearing. Since then TfL has been in negotiation with North London Waste Authority ('NLWA') and its advisers to seek to address its objections, including negotiation over the terms of a settlement agreement. As it stands the draft settlement agreement does not address TfL concerns.

A particular concern of TfL is the proposal to undertake landscaping works on land owned by TfL. In this regard TfL's concern is that it should not be exposed to any additional financial or administrative burden as a result of the carrying out of landscaping works which the promoter is required to undertake as part of mitigation works to make its Proposed Development acceptable in planning terms. It is also concerned to ensure that NLWA's obligations in respect of the ongoing maintenance of any landscaped areas are adequately documented. There is currently no adequate mechanism under the Development Consent Order to ensure that NLWA remains liable for the maintenance of these landscaping works during the operational lifetime of its project.



To rectify this TfL considers that NLWA should agree to take a leasehold interest in the plots of land on which landscaping works are required. TfL notes from submissions made by the promoter earlier in the examination¹ that this mechanism appears to have been agreed in principle to address the Lee Valley Regional Park Authority's concerns over the compulsory acquisition of rights over its land.

Negotiations with the promoter are continuing and although TfL is hopeful that its concerns will be addressed through a private agreement with NLWA, this is not confirmed at this stage and therefore TfL maintains its objection. Notwithstanding any such agreement, TfL considers it necessary and reasonable that the Development Consent Order and associated documents contain appropriate commitments to ensure that NLWA retains liability for maintaining its own landscaping works.

In addition to the matters referred to in the Rule 17 letter, the absence to date of a settlement agreement means that TfL's other objections referred to in the summary of oral submissions submitted on 15 July 2016 remain unresolved, and hence still stand. The Examining Inspector is referred again to those submissions, which in summary concern:

- an absence in the draft Development Consent Order of a requirement to directly consult TfL on works, including landscaping works, that are planned to take place on land where TfL is the freehold owner;
- further to the above, an absence in the draft Development Consent Order of a requirement to directly consult TfL on works that are planned to be carried out which have the potential to affect TfL's functions as highway and traffic authority, including any works that have a potential to affect the A406 North Circular Road or traffic signals that TfL is responsible for maintaining;
- there being no effective mechanism in place in the draft Development Consent Order to consult TfL on any update to the Code of Construction Practice; and
- TfL not being listed expressly in the CoCP as a consultee in relation to the Operational Travel Plan.

TfL wishes to emphasise that it does not consider it acceptable for NLWA to rely upon third party local authorities to consult TfL on matters which affect TfL's interests. It is foreseeable that such an obligation could be inadvertently overlooked to the detriment of TfL. Any such obligation should fall directly upon NLWA and should be secured through appropriate amendments to the draft Development Consent Order.

We trust that in making its recommendation to the Secretary of State, the Planning Inspectorate will consider TfL's concerns fully, particularly in light of TfL's vital functions as a highway and traffic authority.

¹ Page 9, Update on the Status of Private Agreement Negotiations (July 2016)
<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010071/EN010071-001477-North%20London%20Waste%20Authority%20AD07.20>

Yours faithfully



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