



The Planning Inspectorate

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Katie Kerr
Arup

Your Ref:

Our Ref: EN010071

Date: 09 July 2015

Dear Ms Kerr

Following the meeting on 27 May 2015 in which you requested a review of draft application documents for the North London Heat and Power Project, the comments provided below (Annex 1) present the results of a review of the Interim Screening Statement to Inform a Habitats Regulations Assessment (HRA), submitted to the Planning Inspectorate on 18 May 2015.

We would like to remind the Applicant of the need to provide justification to support any assertions made in the application documents, and to ensure that statements are factual rather than promotional. Undertaking a critical review of the prose within these documents with this in mind could be beneficial.

We would like to draw your attention in particular to a key point in the following comments: the Inspectorate disagrees with the conclusion that the absence of adverse effects from the Project on European sites means that it is not necessary to consider in-combination effects with other projects. An assessment of the in-combination effects in European sites is a requirement of the Habitats Regulations and should therefore be addressed in the final HRA report.

Please do not hesitate to contact me should you have any queries regarding the comments provided.

Yours sincerely

Will Spencer

Will Spencer
EIA and Land Rights Adviser

Annex 1

Planning Inspectorate comments on Interim Screening Statement to Inform a Habitats Regulations Assessment (May 2015)

Description of the proposed development and assessment scenarios

Paragraph 1.9.1 refers to *'measures which have been assumed to be part of the project, with those relating to construction being incorporated into the draft Code of Construction Practice (CoCP).'* Where certain application documents (e.g. the CoCP) are relied upon the final HRA report should refer to the relevant application document reference number. It should also clearly explain how the delivery of each of the proposed measures is secured by requirement(s) in the draft DCO or other suitable method. Prior to submission the applicant should seek comments from relevant organisations (e.g. Natural England) on the likely effectiveness of the proposed measures and their response should be provided as an appendix to the report.

Section 5 describes the potential effects on the relevant European sites as those resulting from disturbance, air pollution and water discharge. The applicant is reminded that the development scenarios to be assessed should include consideration of the likely effects to European sites when and if the existing and proposed facilities are operational at the same time.

Information relevant to informing the assessment

Paragraph 2.3.1 explains that other designated sites within 2km of the site have been considered in the assessment. This appears to be an arbitrary selection. The final HRA report should clearly define the study area based on the various potential impacts, pathways, interactions and receptors including those acting in-combination with impacts from other plans and projects.

Sections 2.4 and 2.5 describe the ecology surveys and air quality modelling work that has been undertaken to inform the assessment. It is not clear whether the suitability, scope and timing of this work has been agreed with Natural England or the Environment Agency. Any such agreement should be described in the final report, with copies of relevant correspondence included as an appendix. This information could be useful for example to justify the statement in Paragraph 4.1.4 that a wintering bird survey was not considered necessary.

Table 4.3 shows the results of modelling for the predicted nitrogen deposition rates at the three European sites considered. The rates are shown for 2024 (when only the EfW facility is operational) and 2026 (when the existing EfW facility is decommissioned). The applicant is reminded of the importance of assess all realistic development scenarios and ensure they have been taken into account. In particular the modelling should consider the rates of deposition when/if both the existing and proposed facilities are operational at the same time.

Paragraph 5.3.2 states that the emission rates of particulate matter (PM10) are expected to decrease as a result of the Project. The report also states that the proposals will result in a reduction in nitrogen deposition within Epping Forest SAC and in areas used by SPA/Ramsar features. The justifications in order to support these statements are not clear. The final HRA report should provide clear references to

support statements on the predicted impacts of the proposed development and should explain how requirements in the DCO ensure that the impacts of the development will not exceed those assessed in the report.

Paragraph 5.2.1 explains that the closest area used by shoveler is approximately 240m from the application site. It would be helpful if this and other similar references in the screening report refer to the application documents that provide the relevant survey information to support such statements.

Paragraph 5.2.2 relies upon an academic publication to support statements on the distances from noises source at which birds have a behavioural response. Information relied upon to inform the assessment and which is not easily accessible should be provided in order to support the validity of the assessment this should also include any key references from consultees e.g. comments from Natural England.

Paragraph 6.1.1 explains that the absence of adverse effects on European sites from the Project means that it is not necessary to consider in-combination effects with other projects. This is not correct. A development on its own may not have a significant effect on such sites however this may not be the case when the effects are considered 'in combination' with other projects. An assessment of the in-combination effects on European sites is also a requirement of the Habitats Regulations and should therefore be addressed in the final HRA report. The applicant should be aware that if insufficient information is submitted with an application, it may not be accepted for examination.

Revised Advice Note 10 and approach to the matrices

There is only one reference to PINS Advice Note 10 on HRA, in footnote 7. This is to the version published in 2012 therefore attention should be drawn to the revised version published in June 2015. The revisions seek to provide greater clarity on the following:

- The expectations on applicants, particularly during pre-application.
- The matrices that applicants are asked to submit with the application and which are updated by the Planning Inspectorate during the Examination.
- The Report on the Implications for European Sites (RIES) that is prepared and issued for consultation by the Planning Inspectorate.

Appendix D includes the Stage 1 screening matrices requested by the Planning Inspectorate to summarise the conclusions of the assessment on European sites. The matrices refer on to broad sections of the report as the supporting evidence for the conclusions identified. We refer you to the Planning Inspectorates most recent Advice Note 10 (June 2015) which asks that the matrices summarise the conclusions in respect of each qualifying site feature, with reference to the specific document, paragraph number and page number as the means of referencing the evidence. More detailed information on the purpose of the matrices, how they should be prepared and how they will be used in the Examination is provided in the Advice Note. The applicant might find it helpful to review matrices on the Planning Portal that have been submitted by other applicants recently.

Typographical/referencing

The final HRA report should be free from any inaccuracies or inconsistencies. A full and detailed review of the report in this respect has not been undertaken, however the following matters have been identified:

The predicted baseline nitrogen deposition rate for the Lee Valley SPA/Ramsar site is different in Table 4.3 to that identified in Table 4.2 (whereas the corresponding figures for the other sites are the same).

Paragraph 2.2.2, first bullet – the reference 'FCT' is not defined.

Paragraph 5.3.3 – the characteristics of the referenced 'condition assessments' are not explained and there is no reference to the application documents where the assessments are contained.

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 Planning Inspectorate 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.