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North London Waste Authority

Your Ref:

Our Ref: EN010071

Date: 25 September 2015

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Dear Ms Kerr,

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

Further to our advice provided to the applicant on Tuesday 22 September 2015 relating to the statutory local authority consultees identified in accordance with s.43 of the 2008 Planning Act (as amended) (PA 2008), the applicant for the North London Heat and Power Project (the Project) has requested advice from the Planning Inspectorate (the Inspectorate) relating to the status of two local authorities (Essex and Hertfordshire County Councils).

The definition of prescribed consultation bodies under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) (the 'EIA Regulations') includes each local authority that is within s.43 of the PA 2008, which defines local authorities in terms of whether they fall within the categories of an 'A', 'B', 'C' or 'D' local authority. Local authorities for the purposes of the EIA Regulations are identified in accordance with the PA2008 and Advice Note 3, in particular page 8, which includes a definition of a s.43 consultee as follows:

- 'A' - is a neighbouring local authority (s43(3)) that shares a boundary with a unitary council or lower-tier district council within whose area the development (proposed NSIP and any associated development) is situated (referred to as a 'B' host authority)
- 'B' - is either a unitary council or a lower-tier district council in which the development is situated (a host authority)
- 'C' - is an upper-tier county council in which the development is situated (a host authority), and
- 'D' - a local authority which is not a lower-tier district council and shares a boundary with a 'C' authority a neighbouring authority (s 43(3)).

In accordance with the EIA Regulations the Inspectorate identified the following list of local authorities that the applicant is under a duty to consult (under s.43 PA2008):

- Enfield LB Council;

- Barnet LB Council;
- Hertsmere DC;
- Welwyn Hatfield DC;
- Broxbourne DC;
- Epping Forest DC;
- Waltham Forest LB Council;
- Haringey LB Council;
- Essex County Council; and
- Hertfordshire County Council.

The Greater London Authority was also identified since the land which the application relates to is in Greater London.

The Project is located within the London Borough of Enfield which makes it the host authority or 'B' local authority. The neighbouring local authorities described as 'A' local authorities under s.43 of the PA2008 are those that share a boundary with the London Borough of Enfield. Essex and Hertfordshire County Councils are therefore 'A' local authorities.

The Greater London Authority is not defined as a local authority under s.43(3) of PA2008, there are no 'C' or 'D' local authorities for this project.

The applicant informs the Inspectorate that Essex and Hertfordshire County Councils were consulted with during the phase II consultation despite not being initially identified as 'A' local authorities. If applicants identify and consult fewer consultees (as part of their s.42 obligations) than the Secretary of State notifies under the EIA Regulations and consults in relation to the scoping opinion request, a clear explanation should be provided within the applicant's consultation report. This will assist the Secretary of State in reaching a conclusion about whether or not the applicant has complied with chapter 2 of part 5 of the PA2008.

The Inspectorate therefore advises the applicant to provide evidence that these two local authorities have been able to put forward their views regarding the proposed development without being prejudiced – including evidence that they had sufficient time and information with which to comment. It would also be worthwhile seeking the respective local authorities' views on the above, so that they are aware and the applicant can take this into consideration before submitting the application as upon submission, we will be requesting their views on adequacy of consultation in line with section 55 of the PA2008.

For completeness, the applicant should also clarify in its consultation report the reasons for not being included until later in consultation.

If you have any further questions regarding this please do not hesitate to contact me

Yours sincerely

*Karl-Jonas Johansson*

Karl-Jonas Johansson  
Case officer

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.