

MUNICIPAL YEAR 2016/2017 REPORT NO. **246**

MEETING TITLE AND DATE

PLANNING COMMITTEE

28 March 2017

REPORT OF:

Head of Development Management

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Agenda	
Subject:	North London Heat & Power Project – Update on Development Consent Order
Wards: Upper Edmonton	

1. EXECUTIVE SUMMARY

- 1.1 The report provides an overview of the recent decision by the Secretary of State for Business, Energy & Industrial Strategy to grant the Development Consent Order in respect of the North London Heat and Power Project.
- 1.2 The Development Consent Order made on 24 February 2017 grants consent under section 37 of the Planning Act 2008 for construction and operation of an energy recovery facility with a gross electrical output of up to 70MW at the site of the existing energy from waste facility at the Edmonton EcoPark, Advent Way, Edmonton.

2. RECOMMENDATION

- 2.1 For Information

3. BACKGROUND

- 3.1 An application for a Development Consent Order pursuant to Section 37 of the Planning Act 2008 (as amended) was submitted to the Secretary of State for Business, Energy and Industrial Strategy (SoS) in October 2015 by the North London Waste Authority.
- 3.2 The Planning Act (2008) introduced a new streamlined decision making process for infrastructure projects of a certain scale, which are considered to be nationally significant. This project is considered to constitute a Nationally Significant Infrastructure Project for the purpose of Section 14(1)(a) and section 15, Part 3 of the Planning Act 2008 as it involves the construction of a generating station that would have a capacity for more than 50MWe. As such, it required development consent under the Planning Act 2008. The scale of the proposed development also triggered a requirement for an Environmental Impact Assessment
- 3.3 The project comprises the construction, operation and maintenance of an Energy Recovery Facility (ERF) capable of an electrical output of around 70 megawatts (MWe) at the Edmonton EcoPark with associated development including the construction of a Resource Recovery Facility (RRF). The proposed ERF would replace the existing Energy from Waste facility at the Edmonton EcoPark.
- 3.4 The SoS considered the project proposals and associated Environmental Statement against the relevant National Policy Statements and has had regard to the Local Impact Report prepared by the Council as well as other relevant policy at national, regional and local level.
- 3.5 The formal process of Examination of the Application began on 24 February 2016 and was completed on 24 August 2016. The Examination was conducted on the basis of written evidence submitted to the Examining Authority, accompanied site inspections on 17 March and 17 August 2016 and hearings on 18 March and 5 July 2016.
- 3.6 The Development Consent Order was granted by the SoS, with modifications, on the 24th February 2017.

4. THE PROPOSED DEVELOPMENT

- 4.1 The Development Consent Order approves the construction and operation of an energy recovery facility with a gross electrical output of up to 70MW at the site of the existing energy from waste facility at the Edmonton EcoPark which is expected to cease operation in 2025.
- 4.2 The Development would comprise the following:

- site preparation and demolition works;
- decommissioning, demolition and removal of the existing energy from waste facility;
- works required to provide buildings, structures, plant and equipment needed for the operation of the energy recovery facility;
- the construction of a resource recovery facility;
- the construction of a building (EcoPark House) to provide visitor, community and education facilities, office accommodation, and a base for the Edmonton Sea Cadets;
- utilities and infrastructure works, landscaping along the edge of the River Lee Navigation, security and lighting;
- access improvements to the Edmonton EcoPark, including the widening of the existing entrance from Advent Way, construction of an eastern access from Lee Park Way, and improvements to Deephams Farm Road to enable its use as a northern access;
- works for the creation of and use of a temporary construction site to the east of the River Lee Navigation, comprising areas of hard standing for storage of materials and fabrication, vehicle parking, office and staff welfare accommodation, utility works, fencing and security facilities, and an access from Walthamstow Avenue; and,
- such other minor works as may be necessary or expedient.

4.3 In addition, a temporary construction site (termed the temporary laydown area in the application) is proposed on land to the east of the River Lee Navigation. The applicant states that this temporary laydown area is required for the construction phase because there is insufficient space within the EcoPark to construct the proposed new development at the same time as keeping the existing EfW service in full operation

4.4 In terms of the application for development consent for the NHLPP, the principal development comprising the National Significant Infrastructure Project is the proposed ERF. This would consist of two process lines, each having a grate, furnace, boiler and a flue gas treatment plant, and a proposed capacity of 350,000 tpa. The total capacity of the proposed ERF would be 700,000 tpa therefore. The boilers would supply steam to a turbine generator with an air cooled condenser, capable of an electrical output of around 70MWe (gross) of electricity, and including equipment for heat off-take.

5. SCOPE OF THE EXAMINING AUTHORITIES REPORT

5.1 The Report included findings and conclusions on the following principal issues:

- Habitats and Species Regulations;
- compulsory acquisition;
- combined heat and power;
- grid connection;
- design;
- cumulative impacts with other development proposals;
- transportation;
- land use, including open space, green infrastructure and Green Belt;
- landscape and visual impacts;
- historic environment;
- noise and vibration;
- biodiversity, ecology and nature conservation;
- climate change adaptation;
- flood risk;
- water quality and resources;
- socio-economic impacts;
- construction;
- ground conditions and contamination;
- air quality and emissions;
- dust, odour, and other nuisances;
- pollution control and other environmental regulatory regimes;
- health;
- waste management; and
- utilities.

6. SUMMARY OF CONCERNS RAISED BY THE LPA TO THE PROPOSED DCO

6.1 As the EcoPark site lies within the Borough, the local planning authority was a designated interested party and thus a key consultee throughout the DCO process. The lpa submitted two formal written representations to the SoS on the DCO application as well as a Local Impact Report which set out the likely impact of the proposed development within the Borough. These submissions set out the anticipated effects of the proposed development and how unsatisfactory elements of the application could be addressed.

6.2 Although supportive of the principle and many aspects of the proposed scheme, the Local Planning Authority did have a number of concerns and these are set out below.

Daylight, Sunlight and Overshadowing

- 6.3 A small area of the towpath on the East of the River Lee Navigation would be affected in terms of both the height of the stack, and to a lesser extent the ERF and other buildings. The submission shows that the development would result in some overshadowing and although the impact could not be quantified based on the level of information provided, would have a negative impact on the amenity of the Towpath.

Inspectors Response:

I conclude that the landscape and visual assessment has been carried out in full compliance with the requirements of the NPSs. It demonstrates that the main impacts would occur during construction, and these would be subject to the controls provided by the CoCP.

Once completed, the buildings would be larger and more prominent than the existing EfW plant, particularly the proposed ERF. The scale and mass of the building would be reduced as far as possible through the approaches to design, and the use of colours and materials as set out in the Design Code Principles. The visual impact of the ERF would be reduced when viewed from the LVRP by stepping back the massing and through landscaping.

In its LIR, LBE agreed with the conclusions of the ES assessment that the construction and decommissioning activities would result in some adverse impacts but that these would be temporary, and that the impacts of the scheme when in operation would not be significant overall. LBE concluded therefore that the proposed development would not cause visual harm to the wider area.

Ecology

- 6.4 Minor impact on the Linnett protected bird species through loss of habitat.

Inspector's Response:

The clearance of the temporary laydown area during the construction phases of the project would be likely to deter linnet from nesting within the application site. However, the restoration of the temporary laydown area following completion of construction works and appropriate enhancement of habitats within the site will offset and reduce impacts to below significant levels during the operational phase of the Development.

In conclusion, I consider that the applicant has carried out a thorough assessment of ecological matters in compliance with the requirements of NPS EN-1. There are two adverse impacts:

- the clearance of scrub, grassland and tall ruderal vegetation and use of the temporary laydown area during stages 1 to 3 of the project would be likely to deter linnet from nesting within the application site, leading to a temporary significant adverse effect; however, the restoration of the temporary laydown area following completion of construction works would be expected to provide suitable breeding habitat, so that the effect on this species during operation is not significant; and*
- a small area of the Lea Valley SMINC in the north east of the application site would be cleared and have a footpath and maintenance access added; however, these works would be offset by the enhancement of habitats along Lee Park Way and landscaping proposed elsewhere within the SMINC which falls within the application site.*

In the light of the Statement of Common Ground agreed with Natural England and the Environment Agency and the arrangements provided for by the Code of Construction Practice (CoCP) and the Design Code Principles secured by appropriate requirements in the draft DCO, these effects are not of a scale which I consider would indicate the application should be refused on biodiversity, ecology or nature conservation grounds.

Socio-Economic

- 6.5 The project would result in the net reduction of 52 FTE jobs at the local level due to improved operational efficiency and a reduced requirement for maintenance. The Sea Cadets would also experience a minor adverse impact during the construction phase when any water based activities would need to be carried out elsewhere. However, subject to employment and training opportunities being secured in the s106 obligations in accordance with the Council's Section 106 SPD, the impacts are considered to be neutral.

Inspector's Response

The overall net loss of jobs is acknowledged as is the temporary disruption to the Sea Cadets albeit the provision of an improved facility as part of the EcoPark House would result in net benefit to them. It is also noted that the proposed development does not create any direct impact on the existing population or lead to an increased demand for housing or infrastructure such as school places or health care needs. The project would also provide benefits to the community through the provision of the EcoPark House. The Inspector concluded that there

would be no significant socio-economic impacts arising from the proposed development.

Flood Risk

- 6.6 The lpa raised concerns regarding potential adverse impacts arising from the incorrect approach to SuDs as part of the overall strategy for the Temporary Laydown Area together with a lack of commitment for the reinstatement of the area to be associated with the flood storage needs for the Meridian Water regeneration proposals.

Inspector's Response

The Inspector was satisfied having regard to the proposed flood mitigation strategy for Meridian Water and the timescale associated with the development that there would be no significant effects on flood risk subject to the relevant mitigation measures during construction committed to in the Code of Construction Practice and those set out in the Environmental Commitments and Mitigation Schedule.

Visual Impacts

- 6.7 There are some concerns regarding the detailed design of the proposed development with particular regard to the proposed hard surfacing treatment of the vacant space following demolition of the existing Energy from Waste facility. The proposed observation platform on top of the Tipping Hall is also of concern where this disrupts the visual pattern of dropping down in height and massing of the other two elements of the Energy Recovery Facility. There is also a need for a commitment (in the Design Codes Principles) to the use of high quality materials with no overriding caveat that the decisions on this are driven by costs at the expense of other factors.

Inspector's Response:

Implementing the proposed development requires the construction of the RRF and ERF continuing to operate alongside the existing EfW for a transitional period before demolition of the EfW. This would then leave a cleared site which is referred to in several places in the application documents as becoming available for future waste-related development at the end of implementation in 2027. Until such firm proposals arise, this site would be temporary hardstanding. Both the LVRPA and LBE raised concerns about the intentions for this open space within the heart of the future EcoPark as it would be a significant feature clearly visible from the elevated section of the A406 North Circular Road.

LBE asked the Design Code Principles document should be amended to provide for a better outcome for this large expanse. The outcome is an agreement reflected in the SoCG with LBE that the site would be

temporarily landscaped by trees in planters around the boundary to improve the visual appearance and reduce the prospect of it becoming an unused site and therefore potentially an eyesore (REP3-021). Given that eventual development proposals for this site would be a matter for LBE to consider, I conclude that this is a reasonable situation.

In relation to the outstanding matter of the proposed viewing platform objected to by LBE, I accept the applicant's view that a structure is needed in this location in any event to house the lift core required to provide level access by staff to the offices and control room. The provision of a viewing platform would offer visitors new views over the Lee Valley and towards central London. In terms of scale, the size of the proposed viewing platform would be 17m by 13m and up to 6m above the height of the tipping hall. From the photomontages and illustrations supplied as part of the application, I conclude that this would not be a dominant feature, and in my judgement its potential benefits outweigh the concerns raised by LBE.

In my view, the design approach does not start from a blank canvas as the site is already developed and has been used for waste management purposes for many years. The proposed development would result in the complete redevelopment of the existing EcoPark site, and therefore the opportunity would arise to design a scheme which is much more attuned to the local context with greater attention paid to a coherent approach to appearance and materials. That being said, the proposed ERF would be of considerably greater bulk (20m higher) than the EfW and associated buildings it would replace.

I conclude however that the applicant has carried out a comprehensive and systematic appraisal of the design challenges posed by the proposed development. The resulting approach of the Design Code Principles secured by requirement 4 of the draft DCO offers the prospect of achieving an outcome of high design standard.

7. Modifications to the Order

7.1 The order has been amended by the SoS as outlined below:

- i) Amendment of the wording in relation to the capacity of the generating station in Schedule 1 (authorised development) to remove the reference to a minimum capacity and to instead refer to a maximum capacity of 70MWe. The environmental statement refers to a capacity of around 70MWe but the Secretary of State considers that it is appropriate to include a maximum figure and has included 70MWe as this has been assessed in the environmental statement.
- ii) Amendments of Schedule 13 (protective provisions), Part 5 (for the protection of National Grid as electricity and gas undertaker)

to reduce the period to exercise Compulsory Acquisition Powers from 7 years to 5 years as it was not considered justified and to reflect the outcome of the Secretary of State's consultation on this matter and to ensure that there will be no serious detriment to the carrying on of their undertaking as a result of the exercise of CA powers in the Order.

- iii) Amendments to Article 12 (public rights of way) to reflect to allow for the new footpath in plot 21 to be temporarily stopped up or diverted on request of National Grid to allow works under the North London Reinforcement Order to be carried out. The powers are to be subject to the control of the relevant public authorities
- iv) Amendments to Article 20 (time limit for exercise of authority to acquire land compulsorily or use land temporarily) to reflect the outcome of the Secretary of State's consultation on the appropriate time limit for the exercise of compulsory acquisition powers (see paragraph 4.15).
- v) Amendments to Article 34 (arbitration) to provide that, failing agreement between the parties, the Secretary of State is to appoint an arbitrator.
- vi) Amendments to requirement 18 (combined heat and power) to align with combined heat and power policy (EN-1) which requires applications for thermal generation stations applied for under the 2008 Planning Act should include CHP.
- vii) Removal of what was Article 22 (statutory authority to override easements and other rights) in the ExA's recommended Order as the Secretary of State considers that this unnecessarily duplicates section 158 (nuisance: statutory authority) of the 2008 Act.
- viii) Amendments to Article 23 (application of the Compulsory Purchase (Vesting Declarations) Act 1981 to reflect the fact that sections 3 and 5(1) of that Act have been repealed.

8. S106 AGREEMENT

8.1 The principal obligations secured through the agreement are outlined below:

- i) Prior to the commencement of the proposed development the applicant must submit a local employment strategy to LBE, which the project contractor and operator of the ERF will be responsible for implementing;

- ii) The project contractor will provide 100 Apprenticeships offered to a person ordinarily resident in the local area, each with a duration of 12 consecutive months at a minimum of 30 hours per week during the construction and demolition period in accordance with the approved employment strategy. The apprenticeship will receive a paying wage in accordance with industry norms;
- iii) The developer or project contractor is required to provide 225 on-site skills training placements (for a duration of 1 week) offering relevant skills training in various sectors during the construction and demolition period;
- iv) The owner/ developer is required to submit an apprenticeship and training report every 12 months during and at the end of the each of the initial construction phase, the ERF construction phase and the EfW demolition phase respectively;
- v) If the apprenticeship provision is not provided in accordance with the approved strategy for each relevant phase the owner will be obligated to pay a financial contribution of the sum of £10,000 for each 12-month apprenticeship not provided;
- vi) If the on-site skills training placements have not been provided at the end of each demolition phase, the owner/ developer must pay a contribution of £520 for each of the 225 placements not provided;
- vii) The project contractor must submit a local labour report at various intervals following the commencement of the proposed development, and the operator of the ERF must do likewise during the operational phase;
- viii) The operator must provide heat to the Lee Valley Heat Network; if the heat off take agreement has not been agreed prior to the date of full commercial operations, the applicant or LWL will be required to make available technical and non-commercially sensitive information regarding the heat output from the ERF to a developer who wishes to become a heat off taker;
- ix) LWL must submit a construction travel plan before commencement of the proposed development and an operational travel plan prior to the full commencement of operations;
- x) Before the full commercial operations date, the applicant or LWL must submit a servicing management plan for non-waste deliveries;

- xi) A contribution by the applicant or LWL to costs associated with pedestrian and cycle improvements and safety audits; and
- xii) LBE to enter into a planning performance agreement in relation to the proposed development.

9 INSPECTORS ASSESSMENT

9.1 Overall, the Inspector considered there were only a limited number of adverse impacts

- (1) the potential for wind effects at ground level around the proposed ERF;
- (2) a temporary visual impact during construction of the proposed ERF and demolition of the existing EfW;
- (3) the proposed ERF would be larger and more visually prominent than the EfW it replaces;
- (4) the loss of a small area of SMINC;
- (5) a temporary impact on breeding linnet during the use of the temporary laydown area;
- (6) an overall net reduction of operational jobs; and
- (7) the use of the site to the east of the River Lee Navigation for the temporary laydown area would be inappropriate development and therefore harmful to the MGB.

9.2 Some of these adverse impacts the Inspector concluded can be mitigated through the mechanism of the CoCP during construction, for example (2), whilst even if there is no feasible mitigation the adverse impact is temporary, for example (5). Others he felt could be dealt with as designs for the permanent structures are produced, bearing in mind the application of the Design Code Principles, for example (1) and (3). The loss of a small area of SMINC (4) would be offset by the enhancement of habitats along Lee Park Way and landscaping proposed elsewhere within the SMINC which falls within the application site. It was also considered that the overall loss of 50 operational jobs (6) needs to be seen in the context of the scale of the local labour market, the generation of substantial employment opportunities during the construction stages, and the measures to promote employment and training opportunities secured through the DCOB.

9.3 This left the impact of the land proposed for the temporary laydown area site on the green belt as the most significant adverse impact (7). The Inspector accepted the temporary laydown area constituted inappropriate development, which is by definition harmful. He then sought to identify considerations which might exist to outweigh this potential harm and represent very special circumstances.

9.4 The very special circumstances were identified as:

- the whole project is by definition of national significance, the output of which would contribute to the renewable energy generation targets in line with NPSs EN 1 and 3;
- the proposed development cannot be implemented unless a construction site is found outside the EcoPark;
- there is no feasible alternative to the proposed site to the east of the River Lee Navigation in the MGB for the temporary lay down area, on the basis of the criteria the applicant has established; and
- the site would be used only temporarily, albeit for perhaps 11 years, and its restoration to a cleared open site under the provisions of article 27(5) of the draft DCO would see the harm addressed

9.5 With reference to the above and the need for the project, it was concluded there was clear justification for granting the DCO which the SoS agreed with.

Background Papers

None