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12 February 2019

Secretary to the Aarhus Convention Compliance Committee  
UN Economic Commission for Europe  
Environmental Division  
Palais des Nations  
CH-1211 Geneva 10  
Switzerland

Copy by email to: [REDACTED]

Dear Ms Marshall,

**ACCC/C/2015/131**  
**Comments on the UK's Response to Questions from the Committee**

Thank you for the opportunity to comment on the UK's response to questions from the committee.

In question 5 to the UK, the Committee requested the legislation concerning the statutory consultees. The UK responded by referring the Committee to the Town and Country Planning (Development Management Procedure) (England) Order 2010 (DMPO 2010), which it attached to its response of 13 May 2016 as Annex 3(ii). Unfortunately, the Annex referred to only includes a small section of the DMPO, so I am forwarding a complete copy as Annex 1.

Please note that the list of statutory consultees in the DMPO 2010 includes references to "The Historic Buildings and Monuments Commission for England". This commission was commonly referred to as "English Heritage" before 2014, and "Historic England" since then.

Article 16(1) DMPO 2010 requires the local planning authority to consult specified consultees (depending on the nature of the proposed development).

Article 20(2) requires the consultee to respond within 21 days of **receipt** of the relevant documentation (or some other period by agreement) and that this must be a "substantive" response.

Article 16(5) says that the application shall not be determined until at least 21 days following **notification** of the consultee.

Article 16(7) requires the local planning authority to take into account any representations received from a consultee.

In relation to questions 2 and 3 to the UK, Merton Council's planning register contains a list of external consultees for planning application 12/P0418. This list includes the following consultees:

Transport for London  
Environment Agency  
Natural England  
Thames Water Utilities  
War Memorials Trust  
Historic England (London Division)  
Historic England (Greater London Archaeological Advisory Service)

In this case, the consultees' responses were dated as follows (see Annex 2 attached):

Transport for London	– 13 July 2012
Environment Agency	– 15 May 2012
Natural England	– 13 March 2012
Thames Water Utilities	– 12 March 2012
War Memorials Trust	– unknown
Historic England (London Division)	– no response (claim not to have received notification)
Historic England (GLAAS)	– no response (claim not to have received notification)

[Annex 2 is a file which was forwarded to me by the Local Government Ombudsman following an investigation. It contains two random pages from the planning officer's report followed by copies of four of the consultees' responses. Unfortunately I am unable to separate them out as this was sent to me as a single pdf file.]

These responses have never been uploaded to the online planning register, and have not been made available to the public in any other way.

The UK states that conclusions of these responses were made available to the public via summaries written by the planning officer in the committee report.

Firstly, I consider that very brief summaries are not adequate substitutes for the original comments from statutory consultees or the Noise Assessment, particularly where some of those summaries do not accurately reflect the content of these documents.

Secondly, the committee report was not uploaded to the planning register. To find it, the public would need a) to know that such a report had been written, and b) to search a different part of the Council's website which contains reports for Council committee meetings.

Yours sincerely,

Tracy Breakell