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13 July 2021

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: Mr Ludo Tolu, DEFRA, UK

Dear Ms Marshall,

Re: ACCC/C/2015/131 (United Kingdom)

Comments on the Committee's draft findings

Thank you for forwarding a copy of the Committee's draft findings for my comment. I am very pleased that the Committee has made a number of recommendations to the UK. If implemented, these changes will help the public to access justice when attempting to challenge decisions affecting the environment.

I have a few comments on the current draft which I hope you will be able to include in any revision.

Paragraph 25

Paragraph 25 does not describe the EIA regulations correctly. It currently states:

Under Regulation 9 of the EIA Regulations, a decision-maker must consider whether a "subsequent application" made in relation to Schedule 1 or Schedule 2 development requires a screening opinion.

However, under Regulation 9 of the EIA Regulations, the submission of a "subsequent application" must be treated as if it were a request for a screening opinion under Regulation 5. This, in turn, requires that the local authority adopt a screening opinion which determines whether or not that application is a project which is likely to have a significant impact on the environment requiring a full Environmental Impact Assessment. (A copy of the EIA Regulations is appended at Annex 1 to my original communication).

I would suggest a more accurate description for paragraph 25 would read:

Under Regulation 9 of the EIA Regulations, a decision-maker must consider, by means of a screening opinion, whether a "subsequent application" made in relation to Schedule 1 or Schedule 2 development requires a full Environmental Impact Assessment. The screening opinion must be placed on the planning register for that subsequent application.

Paragraph 33

I think it would be useful to include the date of the response from the Environment Agency and the fact that neither of these statutory consultee's responses were uploaded to the planning register:

On 13 March 2012, Natural England submitted its consultation response to the Council. In May 2012 the Environment Agency submitted its consultation response to the Council. Neither response was placed on the planning register. In May 2012 an environmental noise assessment was submitted to the Council but was only added to the Council's online planning register on 15 July 2014.

Paragraph 46

I think it would be helpful to insert the text as underlined:

On 28 August 2014, the communicant requested the Council to adopt a screening opinion pursuant to Regulation 9 for subsequent application 13/P2192...

With many thanks, again, to the Committee for their time and careful consideration of this communication.

Yours sincerely,

Tracy Breakell