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F.A.O. Emre Williams

17th May 2016

Dear Silvertown Tunnel Case Team

**Re: Planning Act 2008 (as amended) – Section 55
DCO Application by Transport for London for the Silvertown Tunnel
Adequacy of Consultation Request**

Thank you for your letter notifying the London Borough of Newham that the Planning Inspectorate (PINS) has received an application from Transport for London for the proposed Development Consent Order for the Silvertown Tunnel highway scheme.

The letter sets out that PINS must decide by 31st May whether or not to accept the application for examination in accordance with Section 55 of the Planning Act 2008. It also states that, when deciding whether it may accept the application PINS must, amongst other matters, have regard to any representation received from the Council about the adequacy of consultation undertaken by the applicant.

The London Borough of Newham has therefore been invited to inform PINS whether it considers that the applicant has complied, in relation to the proposed application, with the following duties:

- *Duty to consult (Section 42 of the Planning Act 2008)*
- *Duty to consult the local community (Section 47 of the Planning Act 2008)*
- *Duty to publicise (Section 48 of the Planning Act 2008)*

Consequently, Newham Council has been requested to provide an adequacy of consultation response to PINS on the Silvertown Tunnel scheme by 17th May 2016.

Having had regard to Sections 42, 47 and 48 of the Planning Act 2008 (as amended), the Council is of the view that Transport for London has undertaken an adequate pre-application consultation for the Silvertown Tunnel scheme in accordance with the provisions as set out in Sections 42, 47 & 48 of the Act.

The reasons for the London Borough of Newham adopting this view are set out below:

S.42 Duty to consult

In accordance with Sub-section (a), a full list of consultees has been included in the consultation report and it is therefore considered that Transport for London has complied with its duty under subsection (a).

Transport for London has complied with Sub-section (b) as it has consulted with the London Borough of Newham and the Royal Borough of Greenwich (as 'host' boroughs) along with a number of bordering Local Authorities, including the London Boroughs of Tower Hamlets, Southwark, Lewisham, Bexley, Bromley, Barking & Dagenham, Redbridge, Hackney and Waltham Forest.

Transport for London has complied with Sub-section (c) as it has consulted with the Greater London Authority.

Sub-section (d) of section 42 requires TfL to consult amongst others, owners, lessees, tenants or occupiers of the land included within the boundary of the proposal; or those who are interested in the land or have power to sell and convey the land or to release the land. Transport for London has set out details of how they have complied with subsection (d) in the Consultation Report and therefore the Council considers that TfL has accorded with all the necessary provisions of Section 42 of the Act.

S.47 Duty to Consult the Local Community

In accordance with subsection (1) Transport for London prepared a statement of how it proposed to consult about the proposed application with the people living in the vicinity of the development site. This Statement of Community Consultation (SoCC) is contained within the consultation report at Chapter 7. Details of the consultation methods to be adopted and the groups to be consulted are contained within the SoCC.

The Council was consulted on the content of the SoCC over a number of weeks up to mid-August 2015 summer of 2015, prior to its publication in September 2015. The Council proposed a number of changes and additions to the SoCC, including alternative venues and additional dates for drop-in sessions in Newham and TfL agreed to these changes. TfL subsequently carried out all the actions detailed in the SoCC (and also some additional actions not specified in the SoCC) and in doing so Transport for London has complied with Sub-sections (2), (3), (4) and (5) & (7).

The SoCC was printed in the prescribed publications as detailed in Table 6.4 of the Consultation Report thus complying with Subsection (6)(a) and also by a number of other prescribed methods as detailed in paras 6.6.5-6.6.9 of the Consultation Report, thus complying with Subsection (6)(b).

Therefore the Council considers that TfL has accorded with the provisions of Section 47 of the Act.

S.48 Duty to Publicise

Transport for London's Consultation report Chapter 8 provides details of how it has complied with Section 48 of the Act. A copy of the Section 48 notice is included in the consultation report and Table 8.1 shows that it was publicised in the prescribed manner as detailed in paragraph 3 part 4 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

The press notice also provided a deadline for the receipt of responses thus complying with para (2) of Section 48. The timescale (5th October – 29th November 2015) was considered adequate.

Therefore the Council considers that TfL has accorded with the provisions of Section 48 of the Act.

While the Council considers that the provisions of the Act with regards to the Adequacy of Consultation (S.42, S.47 & S.48) have been met and therefore is acceptable, the Council retains some concerns over the consultation process which are worthy of mention here.

Readiness of Consultation Documentation It was clear that TfL were working to a consultation window (and subsequent DCO submission) the timings of which were not being dictated by preparedness of materials, but instead by a politically imposed timetable. This resulted in the issue of 'preliminary' documents for the statutory consultation, which have subsequently evolved in the DCO documentation. In simple terms, the scheme has changed slightly from that which was consulted upon, and a consultation exercise with the new

documentation available would very likely generate a different result or different responses to key questions. While it is acknowledged that some of the emerging detail may have actually increased the level of support for the scheme among the public, this may not actually be considered relevant. It is for PINS to decide the significance of this issue when comparing the scheme being applied for and the one consulted upon, and whether the consultation outcome remains wholly valid for the amended scheme DCO submission.

Traffic Modelling Related to the readiness of consultation documentation above, a traffic model audit and review process is still underway as this submission is made, with an independent consultant examining the base, reference and assessed case models and their fitness for purpose on behalf of the host boroughs. As the model generates the outputs from which the transport and environmental impacts are evaluated, it is clearly very important that the model is robust. It therefore appears to have been premature to progress with the transport and environmental impact assessments and present their, albeit preliminary, findings in the consultation documentation without the model having been fully validated and approved. This same argument could also extend to the submission of the DCO application. This is an issue which both host boroughs will undoubtedly raise in their subsequent submissions to PINS, should the Silvertown Tunnel application be accepted.

Public Transport Proposal The consultation documentation proposed some 'possible' new bus routes linking key district centres north and south of the river. As presented, the consultation documentation suggested that a series of new routes will be delivered to link areas north and south of the river using the tunnel. This however, is far from guaranteed and would be subject to a demand analysis much nearer the time, as TfL Buses' planning horizon is notoriously short term. Therefore, the presentation in the consultation documentation of a network of bus routes that the tunnel would deliver may have been misleading. There could possibly be no new bus services using the tunnel at all.

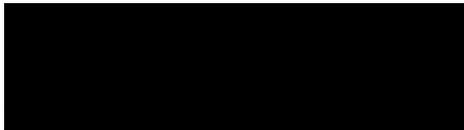
Community Fund The consultation documentation proposed a community fund which, on review, was found to be contrary to planning gain guidance and would not directly mitigate against any identified impacts of the scheme - as it was described. This could easily have been taken at face value by consultees and could therefore be considered misleading as it was presented in the consultation. Subsequent discussions have resulted in the original 'community fund' evolving into a different package of socio-economic and environmental impact mitigation proposals, bearing little resemblance to those set out in the consultation.

These and other issues are likely to arise in subsequent Council submissions to PINS throughout the DCO process, should the application be accepted.

However, notwithstanding these concerns, the Council is of the view that Transport for London has undertaken an adequate pre-application consultation for the Silvertown Tunnel scheme in accordance with the provisions as set out in Sections 42, 47 & 48 of the Act.

I trust this response is satisfactory, but if I can provide any further assistance, please do not hesitate to contact me directly.

Yours Sincerely,



Deirdra Armsby
Director of Regeneration and Planning