

Planning Act 2008 (as amended)

TR020021– Application by Transport for London for an Order Granting Development Consent for the Silvertown Tunnel

Issue Specific Hearing Agenda

Draft Development Consent Order

The Examining Authority (ExA) notified Interested Parties in their letter dated 13 September 2016 of the decision to hold an Issue Specific hearing into the draft Development Consent Order (dDCO) on Wednesday 12 October 2016.

The hearing room will be open at 9.30 am and the hearing start time will be 10.00 am.

Participation, conduct and management of hearings

All Interested Parties are invited to attend the hearings. Each Interested Party is entitled to make oral representations at the hearings. However, this is subject to the ExA's power to control the hearings.

Guidance under the Planning Act 2008 (PA 2008) and the Infrastructure Planning (Examination Procedure) Rules 2010 provide that at hearings it is the ExA that will probe, test and assess the evidence through direct questioning of persons making oral representations. Questioning at the hearings will therefore be led by a member of the Panel, supported by other Panel members. For most matters the ExA will conduct the hearing in a round table format.

Cross-questioning of the person giving evidence by another person will only be permitted if the ExA decides it is necessary to ensure representations are adequately tested or that a person has had a fair chance to put their case.

The hearing will run until all Interested Parties have made their representations and responded to the ExA's exploration of the matters in accordance with the agenda set. The hearing will be split into sessions of approximately two hours, with an hour taken for lunch where appropriate.

Please note that the following agenda is indicative and may be amended by the ExA at the start of the hearing session. Furthermore, the ExA may wish to raise other matters arising from submissions, and pursue lines of inquiry in the course of the discussion which are not on the agenda.

AGENDA – Draft Development Consent Order Issue Specific Hearing

Wednesday 12 October 2016 commencing at 10.00 am

Attendees

All Interested Parties are invited to attend the hearing. The following parties have confirmed attendance:

The Applicant

Environment Agency

Motorcycle Action Group

Marine Management Organisation

Lidoka Estates Limited

Port of London Authority

Bilfinger GVA on behalf of London Borough of Lewisham

Southwark Council

Health and Safety Executive

Mill and Reeve LLP on behalf of Trinity (D) Limited

London Borough of Hackney

Quintain Limited

London Borough of Tower Hamlets

Purpose of the hearing

- Clarify issues around how the draft DCO is intended to work – what is to be consented, the extent of the powers and what requirements, provisions and agreements are proposed;
- Establish or confirm the views of other Interested Parties as to the appropriateness, proportionality or efficacy of proposals.

1. Welcome, introductions, arrangements for the hearing

The ExA will briefly outline how it is intended that the hearing will be conducted.

Additional Interested Parties or other parties who wish to participate in the hearing will be noted in order to assess whether any time limitations on contributions may be necessary.

2. TfL as applicant will be invited, briefly, to explain why the draft DCO is structured and worded in the particular form set out in the application documentation. (Maximum of 15 minutes)

3. The ExA will then invite participants to comment on the wording of the DCO as it concerns them, running through the draft DCO in sequence Article by Article, Schedule by Schedule.

The ExA will highlight their principal concerns during this sequential progress through the text of the draft DCO (dDCO).

The principal issues that the ExA will wish to raise are as follows:

- i. The preamble should recognise that the ExA is a Panel.
- ii. Article A2 – the opening words need to recognise that the draft Deemed Marine Licence (dDML) in Schedule 12 has its own interpretation paragraph. We have a substantial number of queries on the definitions in A2(1) including “commence” as that appears to authorise works that require approval of details before those details are approved, “construct” and “maintain”; omission of definitions for documents that are necessary to understand and govern the proposed works and how various areas are defined on application plans.
- iii. Article A5 – limits of deviation. We are concerned that the draft DCO does not specify the limits of deviation as tightly as those used to assess likely significant effects in the Environmental Statement, that the Works plans do not indicate limits of deviation for individual works and that generally the limits provided in the dDCO appear excessive.
- iv. Article A15 - We have a number of concerns relating to the wording used in relation to protective works.
- v. Article A17 – Are these powers wider than necessary to construct the tunnel and are notice periods correctly stated?
- vi. Articles A24, A29 and A30 – We are concerned over the wide powers to use land temporarily, the notice requirements and definition of periods.
- vii. Article A38 – We would wish to see an explanation as to why these powers would commence at the commencement of construction rather than the commencement of use of the Silvertown Tunnel.
- viii. Articles A52 and A53 – There appears nothing in the dDCO that requires as opposed to authorises the imposition of user charging and the terminology of documentation for certification is inconsistent.
- ix. Article A64 and Schedule 14 – There appear significant omissions from the list of documents that ought to be certified.
- x. Schedule 1 – Are the ancillary works too widely drawn?
- xi. Schedule 2 Requirements – are these sufficient to ensure all mitigation referred to in the ES is secured and more specifically is the wording of the Requirements that are included precise enough. We note additional definitions are introduced by Requirement 1 but are concerned that there are still omissions and inconsistencies with documents for certification in Schedule 14. We have particular concerns over omissions from Requirement 3 and Requirement 4 and the lack of clarity over approval mechanisms in R5 and the adequacy of the wording of Requirement 6, Requirement 11 and Requirement 12.
- xii. Schedule 12 Deemed Marine Licence – the Marine Management Organisation (MMO) have expressed concern that this is insufficiently detailed. We will wish to hear an

- update on progress towards production of a text that contains detail that there is precedent for inclusion in dDMLs.
- xiii. Schedule 13 Protective Provisions – We will wish to hear of progress on resolving issues raised by Statutory Undertakers.
 - xiv. Schedule 14 – We would wish to draw attention to omissions and inconsistencies in the list of documents that should require certification

4. The hearing will be closed on completion of the sequential scrutiny of the wording of the draft DCO

The ExA has prepared a schedule of detailed questions on the wording of the DCO that will be published alongside our Rule 8 letter after it has been refined in the light of discussion at this hearing. The Applicant is advised to have regard to this schedule in forwarding any revised d DCO for Deadline 1.