



# The Planning Inspectorate

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Your Ref:

Our Ref: TR010021

Date: 9 November 2016

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Dear Sir/Madam

## **Planning Act 2008 (as amended) and The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended)<sup>1</sup> – Rule 17**

### **Application by Transport for London (TfL) for an Order Granting Development Consent for the Silvertown Tunnel Project**

#### **Notification of request for further information**

In the light of Mr Justice Garnham's High Court Judgement of 2 November 2016, in relation to the Department of the Environment Food and Rural Affairs (DEFRA) 2015 Air Quality Plan (AQP)<sup>2</sup> (the Judgement), we have decided to request that the relevant named Interested Parties provide further information under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010.

Initial responses should be submitted by **Deadline 1, 15 November 2016**.

#### **Request for further information**

##### **1. The Applicant**

- 1.1 Please confirm whether the air quality modelling used in the preparation of the ES, chapter 6 on air quality [APP-031] or the later version of chapter 6 accepted into the Examination as part of the Panel's Rule 8 letter of 18 October 2016 [AS-022] is in any way affected by the quashing of the AQP or the critique in the judgement of the modelling used by DEFRA. Please explain why you consider that this is indeed the case (or not) with particular

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<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2010/103/contents/made>

<sup>2</sup> <https://www.judiciary.gov.uk/judgments/clientearth-v-secretary-of-state-for-the-environment-food-and-rural-affairs/>

reference to assumptions made in relation to emissions from Euro 6 diesel cars.

- 1.2 Will the Judgement's conclusion in paragraph 95(ii), that the relevant Secretary of State fell into error in relation to Article 23 of Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008<sup>3</sup>, in fixing on a projected compliance date of 2025 for London, (or any other parts of the Judgement) have any implications for the air quality assessment and conclusions in chapter 6 of the ES?
- 1.3 If so, what is the likely timescale for the preparation and submission to the Examination of any revised assessments and documents now needed?
- 1.4 In the light of the foregoing, please indicate whether you can remain confident that implementation of the DCO scheme will not delay the earliest possible achievement of limit values within relevant Air Quality Management Areas and that achievement for London as a whole.

**2. London Borough of Newham, London Borough of Tower Hamlets, the Royal Borough of Greenwich and any other LPA who has an interest in air quality matters in relation to the application.**

- 2.1 Are there any impacts of the Judgement's conclusions in relation to your own Borough's Air Quality Management Areas and air quality target timescales?
- 2.2 Would the proposed Silvertown Tunnel development affect the ability of a non-compliant area to achieve compliance within any updated timescales for compliance?

**3. Public Health England (PHE), No to Silvertown, Caroline Russell AM and Friends of the Earth (FoE)**

- 3.1 Is there any evidence that the conclusions of the Judgement would affect the Applicant's ability to deliver a development, which, if the Development Consent Order is made, would have no significant impact overall upon local air quality during the operational phase?

We draw your attention to **Deadline 2 (14 December 2016)** allowing parties the opportunity to comment on submissions received for Deadline 1.

Yours faithfully

*Peter Robottom*

Peter Robottom  
**Lead Member of the Panel of Examining Inspectors**

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.

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<sup>3</sup> [http://ec.europa.eu/environment/air/quality/legislation/existing\\_leg.htm](http://ec.europa.eu/environment/air/quality/legislation/existing_leg.htm)