

APPLICATION BY TRANSPORT FOR LONDON (“TfL”) FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE PROPOSED SILVERTOWN TUNNEL (REF. TR010021).

WRITTEN REPRESENTATION AND NOTIFICATION OF WISH TO ATTEND HEARINGS AND TO PROPOSE A COMPULSORY ACQUISITION ACCOMPANIED SITE INSPECTION ON BEHALF OF BRENNTAG UK LIMITED.

Written Representation

We are instructed to act on behalf of Brenntag UK Limited (“Brenntag”) in connection with the above matter, and, in particular, the consenting of the proposed Silvertown Tunnel (“the Project”), in respect of which TfL has applied for an order granting development consent (“DCO”).

We submitted a detailed Relevant Representation on behalf of Brenntag on 17 August 2016 (ref. 255) confirming that whilst Brenntag does not object to the principle of the Project, it has very serious concerns regarding the impact the Project will have, absent the implementation of mitigation, protective and safeguarding measures, on the continuing operation of its chemical distribution facility at 215 Tunnel Avenue, Greenwich (“the Greenwich site”). A copy of Brenntag’s Relevant Representation, setting out a comprehensive record of the key matters of concern arising from the anticipated impact of the Project, is enclosed herewith.

Brenntag’s Relevant Representation foreshadowed an intention on Brenntag’s part to embark on negotiations with TfL as regards the Heads of Terms and substantive provisions of a Land and Works Agreement. Therefore, the primary purpose of this Written Representation is to update the Examining Authority in relation to the aforesaid negotiations, together with, in general terms, Brenntag’s ongoing discussions with TfL, and to confirm the extent to which Brenntag’s concerns in relation to the Project have been addressed (if at all).

First, we are instructed to record that Heads of Terms for a Land and Works Agreement are yet to be issued by TfL. However, we are anticipating receipt of a draft within a matter of days. This follows on from two meetings, attended by Brenntag and TfL (and their respective professional advisors), at the Greenwich site on 11 October and 8 November 2016. Brenntag and TfL have also sought to identify the principal matters in respect of which an agreement is required to be reached (in order to inform the binding commitments which any Land and Works Agreement will need to secure) through the preparation of a Statement of Common Ground. We are informed that a copy of the Statement of Common Ground will be submitted to the Examining Authority by TfL at Deadline 1.

At the meetings held on 11 October and 8 November 2016, Brenntag and TfL discussed in further detail a package of accommodation works to be undertaken at the Greenwich site, should TfL’s application for a DCO for the Project be granted, in order to address the key matters of concern particularised in Brenntag’s Relevant Representation. A draft specification in relation to those accommodation works was shared with Brenntag at the meeting on 8 November 2016 and is in the process of being considered by Brenntag.

This represents positive progress, however, at the time of writing, Brenntag’s concerns in relation to the Project remain, namely:

1/. **Greenwich site reconfiguration:** the precise extent, timing and phasing of the package of accommodation works to be undertaken by TfL at the Greenwich site are matters which remain under discussion between Brenntag and TfL. In particular, the number of staff & visitor car parking spaces to be re-provided, the list of on-site assets which will need to be demolished or replaced/relocated, the extent of non-operational land to be reclaimed and remediated (and the acceptance of liability in respect of any associated ‘clean-up’ costs) in order to facilitate the implementation of the accommodation works, and the precise location of any construction compound/welfare facilities required in connection with the works are still to be agreed.

2/. Availability of main access into the Greenwich site: TfL proposes that the main vehicular access gate to the Greenwich site is to be moved slightly and an automated sliding gate arrangement provided. The details of this arrangement are presently being investigated by TfL.

Furthermore, the mechanism through which the Code of Construction Practice and Community Engagement Plan and, in particular, the assurances those documents (and others) give regarding the management of local traffic conditions during the Project construction period and how the availability of access to business premises located along Tunnel Avenue, including the Greenwich site, will be secured, remains a matter of significant importance to Brenntag. In this regard, we note the questions raised by the Examining Authority requiring the submission of an updated Mitigation Route Map and Code of Construction Practice, the securing of compliance with the measures contained in the Construction Method Statement and the Construction Traffic Management Plan, together with comments on the content of Schedule 14 to the draft DCO and the list of application documents to be certified by the Secretary of State. We will be closely reviewing TfL's response to these questions on behalf of Brenntag at Deadline 1.

3/. Creation of a new emergency/secondary access into the Greenwich site: the Greenwich site is currently served by an emergency/secondary access off Morden Wharf Road, which will become permanently unavailable once the construction of the Project starts. Accordingly, an alternative emergency/secondary access is required to be identified and the options available are in the process of being considered by Brenntag and TfL. Of particular concern are the works required to create the emergency/secondary access and the traffic management measures which will need to be put in place in order to ensure that the chosen access can function as a genuine secondary access during the Project construction period.

4/. Movement of Brenntag staff and visitors between the car park and Greenwich site office building: Brenntag and TfL are agreed that a suitable pedestrian route, providing access from the staff & visitor car park to the Greenwich site office building, needs to be identified. The route must direct pedestrians away from operational areas within the Greenwich site, if the requirement for personal protective equipment to be worn is to be avoided, and must be managed in such a way as to eliminate the possibility of conflicts arising between pedestrians and the construction works for the Project. Whilst preliminary discussions have taken place between Brenntag and TfL in relation to a permanent, operational phase solution, it is acknowledged that pedestrian circulation around the Greenwich site will be particularly challenging during the Project construction period as, in all probability, the pedestrian route will need to be flexible and subject to change.

Furthermore, noting the Relevant Representation submitted on behalf of the Health and Safety Executive in respect of the Project, and the question raised by the Examining Authority in relation to discussions/agreements concerning the modification and/or revocation of Hazardous Substances Consents affecting sites at the southern Greenwich end of the Project (ref. FWQ HSS6), we are also instructed to deal here specifically with Brenntag's Hazardous Substances Consent for the Greenwich site.

The Greenwich site benefits from deemed Hazardous Substances Consent ("HSC"), obtained in accordance with section 11 of the Planning (Hazardous Substances) Act 1990 (as amended) ("the 1990 Act") and the Planning (Control of Major-Accident Hazards) Regulations 1999.

The exercise of compulsory acquisition powers by TfL in relation to land at the Greenwich site will result in a change in the person in control of part of the land to which the above-mentioned HSC relates. Therefore, in order to avoid the automatic revocation of the Greenwich site HSC through the operation of section 17(1) of the 1990 Act, it will be necessary for Brenntag to apply to the London Borough of Greenwich, the relevant Hazardous Substances Authority, for the continuation of the HSC prior to the aforesaid change in control taking place.

Brenntag has had some preliminary, advisory discussions with the Health and Safety Executive in relation to the implications for the Greenwich site HSC should the Project be consented. In particular, the Health and Safety Executive and Brenntag agree that the Greenwich site HSC would be automatically revoked by the exercise of compulsory acquisition powers by TfL in relation to part of the

Greenwich site. As a result, Brenntag will be engaging with the London Borough of Greenwich in relation to the timing and process of determining any continuation application in order to ensure that Brenntag's position in this regard is properly protected.

Notification of wish to attend Hearings and to propose a Compulsory Acquisition Accompanied Site Inspection

Pending the outcome of Brenntag's ongoing discussions with TfL, we are instructed to reserve Brenntag's right to attend and make oral representations at the following hearings:

- Compulsory Acquisition Hearings – 8 December 2016, 20 January 2017 (AM) and 29 March 2017
- Issue Specific Hearings in relation to the draft DCO – 19 January 2017 and 28 March 2017
- Open Floor Hearing – 29 March 2017

Should it prove necessary for Brenntag to attend any one of the above-mentioned Compulsory Acquisition Hearings, it will wish to speak and make oral representations in respect of Plots 01-027, 01-028, 01-030 and 01-050.

We would also like to propose the Greenwich site for a Compulsory Acquisition Accompanied Site Inspection, time for which has been set aside in the Examination timetable on the afternoon of Friday, 20 January 2017. During this site inspection, the Examining Authority would be invited to inspect the land comprised within all of the above-mentioned plot numbers, however, it is the proposed compulsory acquisition of the land falling within the Greenwich site (Plots 01-027 and 01-028) which causes Brenntag the greatest concern.

SHOOSMITHS LLP

15 November 2016

Brenntag: Silvertown Tunnel Project – Relevant Representation

Introduction & Background

Brenntag is a global market leader in chemical distribution. With its headquarters in Mulheim an der Ruhr, Germany, the company operates a global network of sites, based in more than 480 locations, across in the order of 70 countries. Brenntag provides a link between chemical manufacturers, suppliers and users, offering tailor made distribution solutions and a formal route to market for industrial and speciality chemicals.

Brenntag UK Limited operates from 21 strategic locations around the UK and Ireland, with an integrated network of production facilities, warehousing and storage depots and distribution centres. Brenntag Inorganic Chemicals Limited (“BICL”) is the leasehold owner of approximately 2.43 hectares of land at Tunnel Avenue, Greenwich (the freehold owner being The Official Custodian for Charities, on behalf of The Trustees of the Charity of Sir John Morden, known as Morden College) (“the Greenwich site”).

The Greenwich site, a critical commercial and operational component in the Brenntag UK and Ireland network, is comprised of offices, warehousing for both material and life science grade products, bulk storage for acids and lyes, associated package filling capabilities, and general storage. As regards the package and storage of leisure (i.e. swimming pool and spa) chemicals, the site serves the entirety of the Brenntag UK Limited group. Warehouse throughput (outbound) at the Greenwich site is in the region of 30,000 tonnes per annum, with this volume of products being distributed throughout the south-east region of the UK.

The Greenwich site has and continues to be the focus of significant investment, aimed at both maintaining the site’s existing infrastructure, and in order to enhance its strategic role within the Brenntag UK and Ireland network. This investment has principally facilitated the development of the Greenwich site as the UK hub for the packaging and storage of leisure chemicals, and allowed for the significant improvement of local warehousing infrastructure in order to meet the demands of the food, feed and pharmaceutical sectors.

Due to the hazardous nature of certain of the products stored and handled at the Greenwich site, its operation is governed by COMAH legislation. Operating at the ‘Lower Tier’ level, the site is heavily regulated by the Joint Competent Authority (i.e. the UK Environment Agency and the Health and Safety Executive).

The Silvertown Tunnel Project

Brenntag UK Limited (representing the interests of BICL) has been in discussions with Transport for London (“TfL”) regarding the Silvertown Tunnel Project (“the Project”) since September 2015. Brenntag UK Limited shall be referred to hereinafter as “Brenntag”.

The project proposals for which development consent is being sought will necessitate the acquisition of a swathe of land at the front of the Greenwich site, adjacent to Tunnel Avenue, from which access into the site (i.e. the main vehicular access) is currently taken. Temporary possession of a strip of land within the same location will also be required to provide an area of working space. In all cases, the land at the Greenwich site is required for the carrying out of improvements to Tunnel Avenue and for the construction of the new Boord Street foot and cycle bridge (the existing footbridge is located immediately north/north-west of the aforementioned main vehicular access into the site).

Brenntag does not object to the principle of the Project, however, in the absence of appropriate mitigation, protective and safeguarding measures, the Project will have a severe impact on the continuing operation of the Greenwich site. Given the proposed land take in order to deliver the Project, an optimum solution as regards the internal, physical reconfiguration of the site will need to be identified, programmed and executed. Furthermore, any commercial and operational disruption will need to be minimised and proactively managed not only during the carrying out of any site reconfiguration works, but also, crucially, during the construction and operational phases of the Project.

Brenntag is about to embark on negotiations with TfL as regards the Heads of Terms and substantive provisions of a Land and Works Agreement, which it is hoped will secure the implementation of the aforementioned mitigation, protective and safeguarding measures. However, pending an agreement being reached, a summary of Brenntag's primary concerns in relation to the Project and its anticipated impact on the Greenwich site is set out below.

Impact of the Project – Key Matters of Concern

As already stated, the permanent acquisition of land to the front of the Greenwich site, adjacent to Tunnel Avenue, will lead to a reduction in the overall site area (by approx. 865sq. m.), which, in turn will necessitate the internal, physical reconfiguration of the site. In particular, the main access into the Greenwich site will need to be relocated, existing on-site structures, including a sprinkler tank, pump house, office block and a series of bund walls, will require demolition, and the existing staff and visitor car park (located to the south-east of the site's main access) will need to be relocated (necessitating the bringing back into use of currently non-operational land which may require substantial remediation).

It is anticipated that the execution of the above-mentioned works to reconfigure the Greenwich site will take in the order of 12 weeks. Brenntag has prepared a preliminary scope of works and budget/costing schedule, and shared the same with TfL. However, a detailed agreement is required to be reached in respect of the execution and completion of the works, both in terms of the party responsible (i.e. implementation and cost) and, crucially, timing. Significant and unacceptable levels of business disruption are anticipated in the event that the works to reconfigure the Greenwich site and the construction works for the Project are undertaken in parallel.

Turning to the impact on the Greenwich site during the construction and operational phases of the Project, there are a number of areas of uncertainty in respect of which Brenntag is seeking clarification.

The site is currently served by four access points: the main access point off Tunnel Avenue and three secondary accesses located on Morden Wharf Road, an access further down Tunnel Avenue adjacent to the site's main offices, and a smaller access off the Thames Footpath. The supporting documents submitted by TfL with their application for development consent offer assurances of access/'reasonable' access to business premises being maintained throughout the construction period (estimated to be for in the order of four years, starting in March 2019 and ending in March 2023, followed by a period of tunnel testing and commissioning). A clearer understanding of what is meant by 'reasonable' access, the measures which will be put in place to secure this, and how the phasing of the construction of the Project (details of which are contained in the Construction Method Statement for the Project [Document 6.3.4.1]) will impact specifically on the availability of the accesses at the Greenwich site (subject to the suitability of the secondary accesses in particular being investigated and confirmed), both for normal business usage and in the event of an emergency, is required.

Typically, commercial vehicle movements in and out of the Greenwich site number in excess of fifty per day. The site has a fleet of seven Heavy Goods Vehicles ("HGV") and one Light Goods Vehicle ("LGV"). Outbound distribution activity (i.e. customer deliveries) is also supported by third party logistics providers with their own means of transport. Furthermore, the Greenwich site is the recipient of a high volume of inbound traffic primarily associated with bulk stock replenishment and customer purchases/collections. It will be imperative for the Construction Traffic Management Plan prepared in respect of the Project, and specifically, the Greenwich work site, to take account of the vehicle movements (both their number and nature) generated by the commercial businesses located along Tunnel Avenue, including Brenntag's facility, in order that current efficiency levels and service standards (both during standard and high demand periods) are maintained and that commercial vehicular traffic entering and exiting the relevant businesses can continue to do so safely. Given the already very heavy traffic volumes within the Tunnel Avenue area, this is a matter of particular concern for Brenntag.

Brenntag notes the reference in the supporting documents submitted by TfL with their application for development consent, specifically the Code of Construction Practice [Document

6.10], to a Community Engagement Plan and the establishment of a Community Liaison Group, however, to date, there has been insufficient dialogue between Brenntag and TfL regarding stakeholder engagement during the construction phase of the Project and how this will be managed. Considerably more comfort is required in relation to this issue.

Brenntag staff (35 direct employees) and visitors to the Greenwich site currently have access to a car park located south-east of the site's main entrance. Upon parking their cars, staff and visitors needing to access the main offices at the site, located further along Tunnel Avenue and adjacent to the Thames Footpath, leave the Greenwich site through a pedestrian access gate situated on Tunnel Avenue. They then follow a pathway to the site's main offices, which are accessed via another pedestrian gate. The land take proposed in order to deliver the Project will mean that the existing car park has to be relocated to the south and that the route of the aforementioned pedestrian pathway will be in direct conflict with the area required by TfL to provide a temporary work space and, consequently, the works required to improve Tunnel Avenue and to construct the new Boord Street foot and cycle bridge.

In the absence of robust measures to resolve and/or manage the above-mentioned conflict, Brenntag staff and visitors will have the option of accessing the main offices through an operational part of the Greenwich site, which will mean having to negotiate a number of potential hazards, including HGV, LGV and forklift truck movements and chemical storage tanks. Alternatively, they will have to make their way through what is, in effect, an operational and active TfL construction site. Brenntag does not consider either of these options to be acceptable, and is seeking an assurance from TfL that appropriate measures can and will be put in place to secure an appropriate and safe pedestrian route for its staff and visitors to the Greenwich site from the relocated car park to the site's main offices.

Concluding Remarks

The Greenwich site is a critical part of the Brenntag UK and Ireland business. It makes a major contribution to Group performance and plays an integral role in both serving the company's customer base in the south-east of the UK, and in supporting the wider integrated national network of Brenntag sites.

The delivery of the Project, and the public benefits it promises to deliver, should not be at the expense or to the material detriment of such a significant, thriving business (having regard to its economic contribution) and local employer.