



Silvertown Tunnel Development Consent Order

London Borough of Lewisham

Written Representation

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Legal review of the draft Silvertown Tunnel Order (dDCO)

SUMMARY

- i. Transport for London (“TfL”) submitted the application for the Silvertown Tunnel Development Consent Order (“DCO”) in April 2016. The DCO will enable the construction and operation of the Silvertown Tunnel Scheme. The London Borough of Lewisham (“LBL”) is an inner London Borough located south-east of central London. LBL shares a boundary with the Royal Borough of Greenwich where part of the Silvertown Tunnel scheme is located and are therefore considered to be a ‘neighbouring borough’ to the purposes of the application.
- ii. LBL supports the principle of increasing transport capacity across the river in east London but believes that there should be a package of crossing further east of the proposed Silvertown Tunnel. At present the Silvertown Tunnel is coming forward in isolation, rather than as a package of crossings and LBL object to this.
- iii. Furthermore LBL has serious concerns with the detail and merit of the Silvertown Tunnel proposal. LBL has raised these issues with Transport for London from 2014 onwards, including through informal meetings and formal consultation responses. This Written Representation provides further detail to previous submissions including LBL’s Relevant Representation on the draft DCO.
- iv. LBL’s key concerns with the scheme are in relation to;
 - Consultation
 - Impacts on traffic congestion
 - Impacts on air quality and the local community
 - Sustainable transport and connectivity
 - The need for a package of river crossings
 - Consistency with planning policy
 - The draft Development Consent Order.
- v. LBL object to the Silvertown Tunnel DCO application due to its concerns on the above issues. Further information on the likely impacts of the proposal is set out

in LBL's Local Impact Report (LBL 01) and this should be read alongside this
Written Representation.

1. INTRODUCTION

- 1.1 GVA and Project Centre are acting on behalf of the London Borough of Lewisham (“LBL”) to prepare and coordinate their submissions in connection with the proposed Silvertown Tunnel Development Consent Order (DCO) (“the proposed development”). Phlorum is providing technical input on air quality matters.
- 1.2 This Written Representation is submitted by GVA on behalf of LBL. Alongside this written representation, GVA has also submitted a Local Impact Report (LIR) (document reference LBL 01) to the Examination at Deadline 1.
- 1.3 LBL is an inner London Borough located south-east of central London. For the purposes of the Silvertown Tunnel scheme the LBL shares a boundary with the Royal Borough of Greenwich where part of the scheme is located and therefore they are considered to be a ‘neighbouring borough’ for the purposes of the application.
- 1.4 Transport for London (“TfL”) submitted the application for the Silvertown Tunnel DCO in April 2016. The DCO will enable the construction and operation of the Silvertown Tunnel Scheme. The Scheme proposes a twin bore road tunnel between the A102 Blackwall Tunnel Approach on Greenwich Peninsula (Royal Borough of Greenwich) and the Tidal Basin roundabout junction on the A1020 Lower Lea Crossing/Silvertown Way (London Borough of Newham).
- 1.5 Whilst LBL supports the principle of increasing transport capacity across the River Thames in the east, it believes that there should be a package of crossings further east of the proposed Silvertown Tunnel.
- 1.6 Furthermore LBL has serious concerns with the detail and merit of the Silvertown Tunnel proposal. These concerns have already been raised through meetings with TfL from 2014 onwards, prior to TfL’s submission of the draft DCO. LBL has also formally raised concerns through the DCO process, submitting section 42 responses, an Adequacy of Consultation Response and a Relevant Representation.

- 1.7 TfL and LBL are in the process of preparing a Statement of Common Ground (SoCG). The SoCG is currently in draft and both parties expect to submit an agreed SoCG at Deadline 1.
- 1.8 This Written Representation expands upon LBL's previous responses and representations, setting out the detail of the concerns in respect of;
- Consultation
 - Impacts on traffic congestion
 - Impacts on air quality and the local community
 - Sustainable transport and connectivity
 - The need for a package of river crossings
 - Consistency with planning policy
 - The draft Development Consent Order.
- 1.9 This Written Representation should be read alongside the following documents, which are all submitted at Deadline 1:
- LBL's Local Impact Report (document reference LBL 01)
 - LBL's response to the Examining Authority's First Written Questions (document reference LBL 03)
 - LBL's comments on other Interested Parties' Relevant Representations (document reference LBL 05).

2. CONSULTATION

- 2.1 Since October 2014, LBL has continually engaged with TfL in connection with the proposed development. Formal written responses have been submitted at each of TfL's DCO consultation stages. A schedule of key dates of meetings and exchanges of correspondence between LBL and TfL will be included within the SoCG between the parties.
- 2.2 As identified in LBL's section 42 response, Adequacy of Consultation response and Relevant Representation, LBL has continually raised concerns with the assumptions made in the transport model and assessment. LBL has consistently requested a copy of TfL's traffic model for its own review, but to date, this has not been made available by TfL. In light of this, LBL has been unable to fully assess the impacts of the proposed scheme on Lewisham as only limited information is available.
- 2.3 On this basis, LBL questions whether effective consultation has been carried out, as the model assumptions and outputs underpin the entire scheme, and these have not been shared with the neighbouring boroughs.

3. MATTERS OF SUPPORT

- 3.1 LBL agrees that transport capacity across the river in the east needs to be increased. As such, LBL is supportive of the proposed development in principle, but only if it is brought forward as part of a package of crossings further east of the proposed Silvertown Tunnel. LBL consider that the DCO should include a commitment for revenue generated by the charging proposed to be introduced at the Silvertown and Blackwall Tunnels to be utilised to fund other crossings. This could be secured by means of a legal agreement or an article within the DCO.
- 3.2 Similarly, LBL supports the provision of bus services in principle, but remain to be assured that bus provision is appropriately secured through the DCO. However, LBL is not satisfied that currently proposed arrangements for planning services will ensure that the Borough's needs are met.

4. MATTERS OF OBJECTION

4.1 This section of the written representations sets out LBL's principle concerns in respect of the proposed development. These concerns have been highlighted within LBL's previous responses and representations, and relate to the following:

- Impacts on traffic congestion
- Impacts on air quality and the local community
- Sustainable transport and connectivity
- The need for a package of river crossings
- Consistency with planning policy
- The draft Development Consent Order.

4.2 Further details on each of LBL's matters of objection are set out below. This section should be read in conjunction with LBL's LIR (document reference LBL 01).

Traffic Congestion

4.3 The highway network in Lewisham is known to be under pressure, particularly with recently approved major developments on the A200 corridor in Lewisham and in the London Borough of Southwark (LBS). The A200 is the main route on the south side to the free crossing at Rotherhithe. LBL therefore disagrees with TfL's assessment of impacts on traffic and considers the scheme will have a more significant impact on Lewisham's roads than recognised by TfL. TfL's findings show that the majority of Lewisham's roads do not currently experience significant congestion – LBL strongly disagree with these findings based on its local knowledge.

4.4 LBL's understanding is that the traffic assessment model and its review by TfL's consultants was not finalised by the date of submission of the DCO application. It is difficult to understand how the application, and more specifically the ES, could have been finalised without the modelling exercise being completed.

- 4.5 Paragraph 11.1.2 of the submitted ES (Doc Ref: 6.1.7) states that the assessment undertaken and reported in the ES “*examines the existing pedestrian, cyclist, and vehicle traveller provision, assesses the type and level of provision to be provided by the Scheme and the resultant effect on all traveller movements*”. The ES confirms that TfL has used a strategic highway model, the River Crossings Highway Assignment Model (RXHAM) to assess the impact of new river crossings on highway network performance in the wider east and south-east London area. The assessment of effects on all travellers has been undertaken by comparative analysis of traffic flows (all vehicles) and HGV flows on roads in the study area ‘with’ the proposed development (TfL’s Assessed Case) and ‘without’ the proposed development (TfL’s Reference Case).
- 4.6 LBL has serious misgivings about the accuracy and suitability of the modelling to accurately reflect the effect of the scheme on the key routes within the Borough. The strategic nature of the model does not allow for the detailed consideration of specific junction / network operation. This is acknowledged by TfL in their Transport Assessment (TA) (document reference 6.5). It is understood that localised modelling has been undertaken but this was focused around the proposed tunnel approaches and did not include any of the network in Lewisham.
- 4.7 The Transport Assessment (document ref: 6.5, Figures 4-18 to 4-20) show the Volume/Capacity Ratios (VCR) values on the network for 2012 base case. Roads within LB Lewisham are shown to have low values and according to the Transport Assessment this indicates “no or low congestion”. This is contrary to the situation referred to above and set out in LBL’s LIR.
- 4.8 Similarly, the Transport Assessment (document reference: 6.5, figures 4-21 to 4-23) states that there are no junction delays in the peak or interpeak periods.
- 4.9 The River Crossing Strategic Highway Modelling Base Year Model Validation Report states the interpeak period modelled journey times validates best against the observed data, with less congested routes, with 88% of the routes being within 15% and the total modelled journey times being close to observed.

The AM and PM peaks do not meet the recommended guidance but are still considered acceptable given the strategic nature of the model. In general, the model has a tendency to underestimate some journey times, especially on very heavily congested routes. This strongly supports LBL's position that detailed localised modelling would be required to understand the actual impacts of the scheme on the wider network.

- 4.10 LBL questions the accuracy of the model, and the ability of user charging to effectively suppress demand to the level of TfL's base case. LBL has concerns with TfL's view that an appropriate level of user charging will manage demand and mitigate impacts of the scheme. LBL's current understanding is that the model does not take into account the cumulative effects of other development schemes including the Thames Tideway Tunnel and other major mixed use schemes in Lewisham and Canada Water. LBL has requested, and is awaiting further details of the growth assumption used in the model. The model needs to account for these schemes during both construction and operation to fully assess the potential impacts on the transport network. LBL consider that it will be extremely difficult to determine and consistently charge users at a level which will deliver the benefits TfL claim whilst not harming the East London economy. LBL is aware that London Borough of Greenwich (a host borough) is not satisfied with the modelling (email from Kim Smith to TfL 20/10/16).
- 4.11 LBL is yet to be provided with TfL's transport model to enable LBL to assess the model and its impacts as projected by TfL. It is therefore extremely difficult to establish whether the proposed mitigation strategy is adequate. LBL consider that there needs to be a clear trigger level at which the measures within the mitigation strategy will come into force together with an ability for LBL to enforce any TfL breach. It is understood that TfL and its consultants (Steer Davies Gleave) have shown the draft model to the host boroughs and that once finalised it will also be shared with LBL and others. LBL therefore reserves the right to comment further once the model has been made available by TfL. Through dialogue with LBL during the Examination, TfL has agreed to run a sensitivity test through the model in which journey times on routes in LBL are

- increased to better match congested conditions in the Borough. LBL reserves its right to comment further until the results are received from TfL.
- 4.12 Based on the data provided within the submitted ES and TA, LBL considers that the proposed development will exacerbate rather than disperse the current pressures of traffic congestion, especially as the proposed tunnel relies on the same southern approaches as the Blackwall Tunnel, including parts of the A2 and South Circular. If charging is imposed at Blackwall Tunnel, LBL has concerns that this will result in a redistribution of traffic to the Rotherhithe Tunnel as that will be the only crossing east of Vauxhall Bridge that will not be subject to either a toll or London congestion charging.
- 4.13 LBL understand that TfL are currently not proposing a local discount for user chargers. If, in the future, TfL decide to apply a local discount, LBL would like to be part of discussions to ensure that the methodology for areas to qualify for a discount is fair and not simply based on borough boundaries.

Air Quality and Community Impacts

- 4.14 As stated above, it is LBL's view that the proposed development, and the introduction of charging at the Blackwall Tunnel, will result in increased traffic volumes and congestion in the Borough which will, in turn, have a detrimental impact on air quality. This will occur in a Borough which already experiences poor air quality - much of Lewisham is already within a designated Air Quality Management Area (AQMA). The Mayor has already acknowledged the need to improve air quality within Lewisham's AQMA and has allocated funding to deliver this improvement. The potential further reduction in air quality resulting from the proposed development will counter-act the efforts being made by LBL, through Mayoral funding, to improve air quality in the AQMA.
- 4.15 In terms of the assessment reported in the ES, LBL considers that the methodology used is unsuitable as it does not take account of existing pollution levels. Furthermore, the model's definition of 1000 vehicles as significant is too high. TfL has relied on methodology within the Design Manual for Roads and Bridges (DMRB) in assessing impacts on air quality, using 1000 annual average

daily traffic (AADT) as their basis. The DMRB screening criteria used by TfL to discount any detailed assessment of impacts in Lewisham is not reasonable, nor is it realistic. The methodology is not appropriate for this assessment on air quality as that is not what the guidance intends the threshold to be applied to. The DMRB defines 1000 vehicles as significant in terms of road design and construction, not in terms of impact on air quality. It also does not take into account existing air quality and existing pollution which is key in Lewisham where the AQMA is already in place, and thus any increase in traffic levels could increase pollution levels beyond levels which are dangerous to health.

4.16 In addition, the DMRB air quality guidance has not been updated since 2007 and is considered by many air quality professionals to be out of date. Although a number of tools and Interim Advice Notes have been issued by the Highways Agency / Highways England and Defra to adjust the DMRB air quality assessment methodology, these are mainly workarounds that do not make its use more robust. Recent guidance from Environmental Protection UK and the Institute of Air Quality Management (May 2015) (IAQM) indicates that much lower volumes of traffic could cause significant impacts, particularly within AQMAs. Their indicative criteria are 100 AADT for LDVs and 25 AADT for HDVs. LBL considers that lower levels such as these should also have been used in TfL's assessment to provide a robust assessment of impact on air quality. As the effect on exposure of sensitive receptors to elevated traffic emissions is identical for road schemes and other types of development, there is no reasonable distinction to suggest why the IAQM criterion would not apply to the assessment of air quality impacts of the proposed development.

4.17 LBL is aware that revised pollutant emissions factors from road traffic and background data, which are used in the DMRB, were released in 2016. However, the IAQM¹ still advises that uncertainty in these data remain and that they will often need to be adjusted when used in air quality assessments. The IAQM therefore recommend erring on the side of caution and completing a range of sensitivity tests in order to address the uncertainty associated with

¹ IAQM. 2016. Dealing with Uncertainty in Vehicle NO_x Emissions within Air Quality Assessments - Interim Position Statement. London: IAQM.

- these latest input data. Considering this, the out of date and unrealistically optimistic DMRB screening criterion is not appropriate for concluding that there would be no significant air quality impacts on Lewisham.
- 4.18 It is therefore LBL's view that the less robust DMRB criterion is not a reasonable one to apply to likely impacts on Lewisham, or any other densely populated area that experiences poor air quality due to road traffic. TfL arguing that the proposed development, as a road scheme, causes different impacts to other types of development is considered to ignore the real-world air quality impacts caused by the scheme.
- 4.19 In terms of impacts on the communities of LBL, it should be noted that the Borough is one of the most deprived in England with respect to residents relying on non-car modes of travel. LBL considers that the provision of a vehicular only crossing will not provide positive benefits to its residents. In fact, the additional traffic may negatively impact residents due to the resulting increases in pollution, severance, congestion and road safety.
- 4.20 LBL does not consider that investing £1billion in new infrastructure primarily for vehicular traffic will reduce congestion, improve air quality or encourage more people to walk and cycle. For these reasons LBL considers that the proposed development will have a negative impact that is not sufficiently mitigated.
- 4.21 The Evelyn ward experiences the highest levels of deprivation in the Borough and this ward is served by the A200. LBL therefore considers that the proposed development will have a negative socio-economic impact on a highly deprived ward.
- 4.22 In line with this, LBL considers that the proposed development should include specific targets in terms of the proportion of employees that are resident in the LBL. This applies to both employment and apprenticeships.
- 4.23 Declared AQMAs in Lewisham comprise most of the northern half of the borough and several ribbon roads in the south. This includes the Evelyn Street corridor in the northern part of the Borough where the greatest impacts on traffic

- flows would be experienced from the proposed development. This area is also the location for the most sensitive air quality receptors.
- 4.24 The Evelyn Street corridor is already the focus of a TfL funded project, amounting to £305,250 via the Mayor's Air Quality Fund (MAQF), to improve public exposure to air pollution. This project focuses on an area where significant regeneration of Lewisham is happening. Several large schemes in this area are proposed or are currently under construction to provide 8,500 homes, amongst other uses, in the Borough. This large-scale regeneration will clearly have a significant impact on Evelyn Street, which joins with the Lower Road Air Quality Focus Area in Southwark, further highlighting the importance of this stretch of the A200 as a highly sensitive corridor in terms of poor air quality affecting both boroughs. Relatively small changes in traffic flows on the A200 will therefore have large negative impacts on local air quality. Annual mean NO₂ concentrations at locations of relevant exposure along Evelyn Street currently exceed the Air Quality Standard by almost 20%. Lewisham's Air Quality Action Plan (AQAP) measures are therefore particularly important here. As highlighted earlier in this statement and in the LBL LIR, significant increases in traffic along the A200 are expected from trips generated by the proposed development.
- 4.25 The ES's submitted in support of some of the key developments along the Evelyn Street corridor reveal the following 24-hour AADT trip generation additions to flows on Evelyn Street:
- Plough Way Marine Wharf East – 176 vehicles;
 - Plough Way Marine Wharf West – 240 vehicles; and
 - Oxestalls Road – 1,017 vehicles.
- 4.26 The Transport Assessment (TA) for the Convoys Wharf development shows that it will generate the following flows in the AM peak period:
- 761 buses; and
 - 514 cars.

- 4.27 On their own, the Plough Way developments do not exceed the DMRB screening criterion, but they do exceed the IAQM criterion requiring detailed air quality assessment. In any case, detailed assessment of the air quality impacts of these schemes was required and a suite of mitigation measures were included in the submitted ES's. For the Plough Way Marine Wharf East development, the mitigation measures included planning obligations and agreements for highways improvements adjacent to the site combined with TfL contributions towards improved bus services, a Controlled Parking Zone and other transport and public realm aspects. For the Plough Way West Marine Wharf development, the mitigation measures were aimed at maximising the uptake of sustainable travel modes including provision of a car club, electric vehicle charging points and cycle infrastructure. For the much larger developments at Oxestalls Road and Convoys Wharf, mitigation measures additionally included new signalisation and pedestrian crossing infrastructure.
- 4.28 The requirement for significant mitigation of these Evelyn Street corridor developments, some of which will generate much lower trips than the DMRB screening criterion, shows that relatively small changes in traffic flows in this sensitive location are a legitimate and major concern. The A200 corridor is clearly a sensitive area where both Southwark and Lewisham are focused on reducing exposure of residents to air pollution. Being so sensitive, and in continuing to exceed the NO₂ air quality standard, there is no headroom for the additional impacts on the A200 caused by the proposed development. In this context, a much smaller increase in traffic than 1,000 vehicles per day would have significant negative impacts on air quality and these should therefore be assessed. It is LBL's view that the proposed development could add further air pollution to an overstrained and sensitive location that, in LBL's considered opinion, has not been robustly assessed by TfL, and nor has any effective mitigation been proposed.
- 4.29 As air quality impacts on the borough have not been assessed at all, LBL cannot provide more technical appraisal of the proposed development, nor how it would allow the Borough to comply with relevant policy. However, considering that negative impacts on specific areas of concern are likely, the

- scheme will set back the aims of Lewisham's AQAP and the Evelyn Corridor MAQF project, which recognise the principal air quality impact requiring mitigation is road traffic emissions.
- 4.30 The recent High Court Ruling that the government's failure to act on improving air quality in London could have further implications for the proposed development. Although London is one of the six Clean Air Zone cities where government action is focused on improving air quality, via the 2015 Air Quality Plan², the ruling states that the government had erred in law by fixing compliance dates based on over optimistic modelling of air quality. The upshot of this is that under Section 48 of the Localism Act 2011, any infraction sanctions levied against the government on its continued failure to manage air quality in areas of concern such as within Lewisham's AQMAs and the Evelyn Street corridor, could be passed down to local authorities to pay. Therefore, any additional burden on the borough's existing poor air quality caused by the proposed development could result in Lewisham paying significant costs that are not currently, nor proposed to be, mitigated. LBL objects to any financial burden being passed on by TfL to the Borough. It is possible that it could be difficult to justify the proposed development following the above ruling, given that it could increase trip generation and associated emissions.
- 4.31 In terms of road safety, there are a number of key links and nodes on the A200 corridor which give cause for concern. TfL's own monitoring data identifies three Priority 1 nodes with the "highest number of collisions when compared to the average". The links are scored as Priority 1 closest to the Southwark Borough boundary and Priority 2 "sites with collision rates above the average" for the remainder. This clearly demonstrates that there is an existing situation in the LBL which will be incredibly sensitive to any additional traffic but is not considered within the Transport Assessment (document reference 6.5).
- 4.32 The Transport Assessment (document reference 6.5) states that the percentage of HGV's will increase in the reference case (Para 5.4.4 of the TA - HGV proportions through the tunnel will increase from 25.4% in 2012 to; 27.5% in

² Defra. 2015. Improving air quality in the UK Tackling nitrogen dioxide in our towns and cities. Gov.uk

- 2021 and 29.3% in 2031 reference case). However, Paragraph 7.2.14 and Figure 7-4 show there will not be a change in HGV's through the tunnels. Given the predicted rise in HGV's and the provision of HGV and bus lanes in the new tunnel, LBL considers that it is highly likely that additional HGV trips will be drawn to the tunnel, bringing with it severance and air quality issues.
- 4.33 LBL is aware of a number of large construction projects programmed to be delivered at the same time as the proposed development. These include Thames Tideway Tunnel, several large strategic sites in Lewisham as well as the adjacent Canada Water area in LBS. LBL considers that the potential cumulative impact of these construction projects needs to be fully considered in order to understand the potential highway and air quality impacts – it is LBL's view that this has not been done by the applicant and as such the potential impacts of the proposed development on Lewisham's network has been underestimated. This is particularly the case in relation to the aforementioned Evelyn Street corridor.
- 4.34 LBL wishes to ensure that any proposed monitoring would adequately provide assessment of impacts on the borough from the operation of the Silvertown Tunnel and that this would lead to effective actions to mitigate negative air quality impacts on its residents. LBL therefore requires assurance from TfL that the Silvertown Tunnel Implementation Group (STIG) will ensure that there is adequate monitoring of the impact on air quality and will deliver effective emissions reduction measures.
- 4.35 The Health and Equality Impact Assessment (HEIA) (Document Reference 6.8) assesses the potential effects of the Scheme on health. LBL consider that the potential short-comings of TfL's traffic and air quality assessments significantly undermine the robustness of the submitted HEIA. There is no doubt that deterioration in air quality could lead to negative impacts on the health of Lewisham's community.
- 4.36 Overall, LBL does not have confidence in the traffic data that are a fundamental input to the air pollution dispersion model used in the air quality assessment. As such, LBL reserves its right to comment further on air quality matters following

the receipt of the further information it has requested from TfL in relation to its transport model. LBL does, however, have concerns with the air quality assessment methodology, and particularly the following issues

- Determining that the majority of receptors assessed by TfL experience a negligible change in NO₂ exposure is not helpful as it does not put focus on the most significant impacts in pollution hotspots and areas of particular sensitivity to poor air quality.
- TfL appears to have picked and chosen assessment and significance criteria from the DMRB and IAQM to suit their needs, rather than in order to provide a robust assessment – this particularly applies to the method they have employed to discount at the scoping stage any air quality effects on LBL.

Sustainable transport and the Package of River Crossings

4.37 LBL considers that the proposed development does not promote sustainable transport and neglects opportunities to improve connectivity for walking and cycling as it is solely a tunnel for motorised vehicles. Given that prioritisation of walking and cycling is a priority for LBL and TfL, it is LBL's view that this is a major shortcoming of the proposed development. LBL acknowledge that the cost of delivering a cycle or pedestrian route through the tunnel is likely to be prohibitive, however LBL is of the view that cost effective alternatives exist.

4.38 In terms of potential options that TfL should be considering as part of the scheme, LBL considers that a cycle transit service through the new tunnel, the Blackwall Tunnel and Rotherhithe Tunnel are achievable. Such measures would go some significant way to improving sustainable transport links in East London. Importantly, such a service already exists at the Dartford Tunnel which highlights that it is deliverable.

4.39 Furthermore, it is LBL's view that TfL should commit to providing improved high quality cycling connections at a strategic level from key centres such as Catford and Lewisham, to ensure that sustainable transport is promoted alongside

- motor vehicles. TfL could build on the existing and proposed Cycle Superhighways in the region as part of the Silvertown Tunnel development.
- 4.40 LBL welcomes the tunnel's ability to carry cross river buses, but has significant concerns that TfL has not made any commitment within its application for the subsequent bus provision. LBL requests that TfL provides a more detailed and defined strategy for cross river buses so that the neighbouring Boroughs can consider whether this is supported. Commitment to delivery of an enhanced bus service would also mitigate the lack of a pedestrian link.
- 4.41 LBL remains unconvinced that the proposed development will contribute to the promotion of walking and cycling. Uncertainty also exists as to whether cycle transit is proposed for Blackwall and Rotherhithe tunnels.
- 4.42 LBL supports the principle of increasing transport capacity across the river in the east, but believes that there should be a package of crossings further east of the proposed development. LBL has expressed this view consistently throughout the DCO consultation process.
- 4.43 LBL believe that bringing forward Silvertown Tunnel in isolation will have a negative impact on Lewisham and other areas, as evidenced in LBL's Local Impact Report. Traffic flows will be concentrated in smaller areas than that if a package of crossings came forward. Furthermore the Silvertown Tunnel relies on the same southern approaches as the Blackwall Tunnel, including the A2 area and the South Circular which already suffer from daily congestion.
- 4.44 Bringing forward the Silvertown Tunnel in isolation is contrary to both planning policy and wider commitments from government. National and regional government have both been clear from the outset that a package of river crossings is needed. Government's Transport Select Committee stated "*....Silvertown Tunnel must not be built in isolation. Instead it must be part of a package of crossings*".

- 4.45 Requiring a package of river crossings rather than just Silvertown Tunnel would also help reduce the negative impacts of the proposed development on air quality as traffic flows would be shared across a greater area.
- 4.46 Similarly the Mayor's London Plan refers to a "*...programme of works under development to improve cross-Thames road links in East London including Silvertown tunnel*" (policy 6.1).
- 4.47 Whilst the recent Mayoral review referred to in TfL's Silvertown Tunnel Update Report (October 2016) refers to TfL committing to a range of enhancements to the Silvertown Tunnel and a new approach to river crossings, as yet there is no evidence to support these enhancements or further river crossings. At present there is nothing within the draft DCO to provide reassurance to LBL and other Interested Parties that enhancement or new crossings will actually be delivered. From LBL's understanding, Silvertown Tunnel is being developed and the proposed construction is in isolation rather than as part of the envisaged package of crossings.
- 4.48 It is LBL's considered view that no weight can be attributed to the announcement of other river crossing as there is no specific commitment or certainty that the package of crossings will be delivered. The DCO application needs to be examined based on a robust assessment of its impacts and the effectiveness, and delivery certainty, of measures put in place to mitigate those impacts.

Consistency with policy

- 4.49 LBL's Local Impact Report provides a detailed planning policy appraisal of the project which should be read alongside this Written Representation. It is LBL's view that the proposed development is not consistent with planning policy, be that the NN NPS or the adopted development plan, as
- It is not coming forward as part of a package of crossings.
 - It does not promote sustainable development.

- It will deliver a potential adverse impact on the health of Lewisham's community.

4.50 In summary, LBL considers that the proposed development is inconsistent with the key planning policies and guidance set out below.

National Networks National Policy Statement (NNPS)

- Paragraph 3.2 recognises that development should be designed to minimise social and environmental impacts. LBL's LIR demonstrates that there are significant social and environmental impacts such as a negative impact on air quality (and subsequently health) and thus LBL believes the scheme does not conform with this section of the NNPS.
- Paragraph 4.6 states that applications should be supported by a local transport model to provide sufficiently accurate details of the project. As set out within this Written Representation and the LIR, LBL question the adequacy of the transport model. If there is not an adequate transport model which provides a sufficiently accurate detail of the impacts of the proposal then the scheme is contrary to this section of the NNPS.
- Paragraphs 4.79-4.82 recognise the potential to affect health and well-being. The LIR demonstrates that the scheme will affect air quality and health. LBL's view is that adequate mitigation has not been proposed and so the scheme is contrary to this section of the NNPS.

London Plan

- Policy 6.1 and its supporting text envisage the Silvertown Tunnel being delivered as part of a wider programme of works to improve cross river access in East London. Silvertown Tunnel is coming forward in isolation and thus the scheme is contrary to the London Plan.
- Policy 6.12 refers to a number of criteria which should be used in assessing proposals for increasing road capacity. LBL's LIR suggests that there are many potential negative impacts of the scheme and that potentially there is

a net-benefit across the identified criteria. This implies the scheme is contrary to this policy.

- Policy 7.14 focuses on improving air quality and tackling air pollution, especially within Air Quality Management Areas. The scheme does not meet the requirements of this policy, especially as much of Lewisham lies within an Air Quality Management Area.

Lewisham's Core Strategy

- Policy 7 refers to applying the London Plan policies on climate change including those related to air quality.
- Policy 9 seeks to improve air quality and minimise negative air quality impacts, as well as working with TfL to improve air quality.
- LBL's LIR suggests there will be a negative impact on Lewisham's air quality and thus the scheme is contrary to these Core Strategy policies.
- Policy 14 promotes sustainable modes of transport and refers to working with TfL. At present the scheme does not promote or commit to sustainable modes of transport and is contrary to this policy.

Draft Development Consent Order

4.51 In light of the concerns set out in this representation, LBL objects to the wording of a number of provisions within the draft Development Consent Order (dDCO). The schedule at Appendix A identifies the clauses and articles in the dDCO that LBL request are revised, and makes appropriate recommendations for amendment. A summary table is provided below.

Draft DCO Provision	Comments & Required Amendments
General	LBL notes that the Borough is not 'named on the face' of the dDCO except for Article 65 in relation to the STIG. LBL is concerned that this will limit its influence going forward in relation to the proposed development. LBL therefore requests that the dDCO provides an explicit role for the Borough in relation to the approval of documents or plans by

Draft DCO Provision	Comments & Required Amendments
	<p>the relevant planning authority. LBL requests that this provision is made either by requiring the Borough's formal approval or by identifying the LBL as a consultee to the host Borough for any documents or plans that require approval by the host Borough.</p>
<p>General</p>	<p>LBL notes that it's only named influence on or notification of implementation of the Scheme comes from the STIG which is only guaranteed to meet once a year and timing is at TfL's discretion.</p> <p>There is no provision on the face of the dDCO for LBL to specifically be notified of impacts of the proposed development – for example, in relation to works which might result in closure. Additionally, there is no provision for sharing of environmental information with LBL aside from the role of the STIG in connection with the Traffic Impacts Mitigation Strategy and the Monitoring Strategy.</p> <p>LBL therefore requests it is named as a consultee in relation to non-emergency tunnel closures, and requests a set of Protective Provisions in relation to LBL's areas of concern is included within the DCO. These would provide for the following:</p> <ul style="list-style-type: none"> i. prior-notification and consultation as well as information sharing; ii. notification of non-emergency tunnel closures, ability to influence charging if diversion to Rotherhithe tunnel and Tower Bridge/London Bridge is taking place; and iii. sharing of information on air pollution and requirements for mitigation not already provided to the STIG.
<p>Article 52: charging policy</p>	<p>LBL is not a named consultee within this Article, notwithstanding the fact that the Charging Policy confirms that it will be notified as part of the STIG.</p> <p>LBL considers that provision should be made for the STIG to be chaired independently. It objects to the Mayor, as Chair of TfL, having a role in approving documents submitted by TfL.</p> <p>LBL also notes that revisions to the Charging Policy could also change the role of the STIG set out in it.</p> <p>LBL therefore requests that it is named as a consultee in the dDCO. It is also requested that the STIG should be responsible for approving a revised charging policy, and that any changes to the STIG's role via a change to the Charging Policy must be approved by the STIG unanimously.</p>

Draft DCO Provision	Comments & Required Amendments
	<p>LBL is concerned that the Project Objectives in the Charging Policy has no link to impacts on air quality, although Project Objective 5 seeks to minimise any adverse impacts of any proposals on communities, health, safety and the environment.</p> <p>LBL considers that a clear link to air quality and charging should be considered either on the DCO or in Protective Provisions.</p>
<p>Article 53 : Power to charge for use of the tunnels</p>	<p>LBL considers that TfL's discretion under Article 53(2), while made in line with the charging policy, still does not ensure detrimental impacts on traffic are taken into consideration when setting charges.</p> <p>LBL notes that paragraph 2.1.3 of the Charging Policy states that: <i>“The primary function of the user charges is to enable the management of traffic demand for the river crossing. By managing this traffic demand, the other effects of the Scheme can be effectively managed and the Project Objectives met.”</i></p> <p>LBL also notes that the actual charge is entirely at the discretion of TfL with no requirement, on the face of the dDCO, to consult with the Borough. Without that requirement, LBL considers that TfL cannot be tested to confirm that they have acted in line with the Charging Policy. It is acknowledged by LBL that the Charging Policy includes a requirement to consult but this is only for the opening year, which provides TfL with the power to vary charges as they consider appropriate thereafter without any consultation. .</p> <p>LBL therefore requests that it is consulted on charge levels given the impact of traffic diversion if too high or too low.</p> <p>Consideration should be given to the Project Objectives being incorporated into the dDCO as the test against which pricing is set. As the DCO is currently drafted, TfL could set a charge resulting in funds accumulating in its general account or set a fund that would not meet the goal of traffic management.</p> <p>LBL is concerned that Article 52(2), (3) and (4) give a wide discretion to TfL. LBL requests that provision be made to consult and agree with the STIG on TfL's proposed charges given the effect of traffic diversion when the Blackwall Tunnel begins charging. This would simply bring out provisions for the STIG in the Charging Schedule which LBL would argue should be in the dDCO in any event.</p> <p>Article 53(4) subverts the charges that may be recommended by the STIG and should be redrafted so as not to give absolute discretion to TfL, perhaps by way of a STIG sub-committee to</p>

Draft DCO Provision	Comments & Required Amendments
	review/approve operation of 53(4).
<p>Article 56: Application by TfL of charges levied</p>	<p>LBL notes that TfL's own Charging Statement states that: <i>S.1.1 This Charging Statement sets out why a user charge is a critical part of TfL's proposals for the Silvertown Tunnel scheme ('the Scheme') and how TfL will use the power to set and vary the user charges as a way of managing the traffic and environmental effects of the Scheme in the long term.</i></p> <p>It is LBL's view that application of charges levied should be restricted to managing the traffic and environmental effects of the Scheme, 56(e) must be removed or replaced with provision for a Scheme specific fund.</p> <p>LBL also requests that Article 56 makes provision for payments to be made to dedicated funds for a package of river crossings and sustainable transport measures, including exploring and pursuing other River Crossings to the east of Blackwall Tunnel and making the tunnel useable by cyclists. The DCO should also include a specific obligation for TfL to provide mitigation if the scheme results in increased traffic on the A102, A2 or the Rotherhithe Tunnel.</p>
<p>Article 65: The Silvertown Tunnel Implementation Group</p>	<p>Article 65(5) lists the areas to be considered by the STIG and gives it the power to make recommendations. The article does not however place any obligation on TfL to consider recommendations or act on them.</p> <p>Article 65(6) vests power to call meetings in TfL with a wide discretion as to when. This provides TfL with the ability to undertake meetings at times when LBL staff may be unavailable, e.g. during school or public holiday. Connected to this is that a quorate does not require attendance of LBL, or any of the neighbouring boroughs. LBL has concerns that the simple majority unfairly prejudices the Borough as it allows TfL and the 'host' boroughs, along with any other person or body considered appropriate and invited by TfL to pass any recommendation / decision. LBL also objects to its exclusion from the STIG review group.</p> <p>It is LBL's considered view that the proposed structure of STIG as provided in the dDCO means that TfL is not bound to accept STIG's position / recommendations. It is LBL's view that this undermines the purpose of STIG. In addition, the potential for mayoral intervention in user charging as provided</p>

Draft DCO Provision	Comments & Required Amendments
	<p>by the dDCO also means that user charging is likely to reflect political expediency. LBL has significant concerns that this will result in user charging being unable to fulfil its proposed role of managing demand.</p> <p>LBL therefore requests the following amendments to the DCO:</p> <ol style="list-style-type: none"> i. Article 65 does not contain sufficient detail on the operation of the STIG, details of its operation can only be found after reviewing the Monitoring Strategy, Charging Policy, Traffic Impacts Mitigation Strategy and other documents. Article 65 needs to be redrafted to pull together elements relevant to the STIG which are split amongst the certified documents. ii. Recommendations of the STIG should be provided for and TfL compelled to take them into account – this should be expressly provided for. iii. There should be provision for the Boroughs to request different dates for the STIG meetings. iv. TfL should not have sole authority to call meetings. v. Article 65(2)(n) should give some prior notification / approval requirement or be subject to no objections being raised. vi. Provision should be made for other members of the STIG to sit on the review group. It should also be clarified whether or not the review group makes recommendations to the wider STIG for changes. vii. The STIG should have an independent chair.
<p>Requirement 5: Code of construction practice and related plans and strategies</p>	<p>LBL is concerned that, in discharging Requirement 5, the relevant LPA may not take into account air quality issues resulting from traffic flows in LBL caused by the proposed development.</p> <p>LBL requires that the DCO includes provision for the relevant Planning Authority to approve the document in consultation with LBL.</p>
<p>Definition of “the traffic impacts mitigation strategy” and the “the</p>	<p>The Traffic Impacts Mitigation Statement determines the process to determine the need for and mitigation. The STIG can make recommendations into investigations of any adverse effects but this is not noted on the face of the dDCO. In general the STIG provisions in the dDCO are light, with its functions and more detail</p>

Draft DCO Provision	Comments & Required Amendments
<p>monitoring strategy”</p> <p>Requirement 7 - Monitoring and mitigation strategies</p>	<p>being provided in other documents.</p> <p>LBL notes that it will be for the STIG to review that TfL are implementing and acting in accordance with the monitoring strategy and traffic impacts mitigation strategy. This is not however noted in the dDCO but in the Traffic Impacts Mitigation Strategy.</p> <p>LBL requests that the DCO text is revised to set out the role of the STIG in relation to traffic impacts and mitigation. The DCO needs to be clear that LBL can request that TfL investigates adverse effects detected and affecting the Borough.</p> <p>Paragraph 4.3.2 of the Monitoring Strategy states that: <i>“Proposals for changes in the monitoring locations [for air quality monitoring] may be made by any member of the STIG if thought appropriate to allow for future impacts to be fully captured during monitoring. STIG is responsible for considering and making a collective recommendation to TfL”.</i></p> <p>LBL notes however that there is no provision in the dDCO for this. It is LBL’s view that a requirement should be drafted for air pollution monitoring and reporting.</p>

5. CONCLUSIONS

5.1 In conclusion, the London Borough of Lewisham submits this representation to object to the Silvertown Tunnel DCO application due to:

- its potential detrimental impacts on:
 - traffic congestion;
 - air quality;
 - health of the local community;
- its failure to contribute to sustainable transport and connectivity;
- it not being delivered as a package of river crossings; and
- its inconsistency with planning policy.

5.2 LBL expects to provide further input on likely mitigation measures once their concerns have been satisfactorily addressed regarding the reliability of the traffic and air quality impacts assessments.

APPENDIX A

Legal review of the draft Silvertown Tunnel Order (dDCO)

LBL obtained legal advice from Bond Dickinson in conjunction with the London Boroughs of Hackney and Southwark. The schedule below, prepared by Bond Dickinson identifies the clauses and articles in the dDCO that LB Hackney request are revised, and makes appropriate recommendations for amendment. It provides further detail to the information summarised in the table within section 4 of this Written Representation.

Review of draft *Silver Town Tunnel Order* (dDCO)

London Borough of Hackney (LBH)

London Borough of Lewisham (LBL)

London Borough of Southwark (LBS)

LBH, LBL and LBS are collectively referred to as the Boroughs.

Notes:

1. We have structured our comments on the dDCO by themes noted in your Legal Instructions of October 2016. Our high level comments on the dDCO drafting have been set out in a table format with extract dDCO provisions relevant to the identified areas of concern followed by our comments then recommendations.
2. There are four tables in this document, one noting common concerns for all Boroughs with the others relating to specific concerns for each Borough.

Concerns for the Boroughs

Influence on the Silvertown Tunnel scheme ('the Scheme')	
dDCO Provision	No provision for comment on sign off of documents which RB Greenwich or LB Newham will have.
Bond Dickinson's Comments	<p><u>Comments:</u></p> <p>Nowhere in the dDCO are the Boroughs 'named on its face' save for as part of the Silvertown Tunnel Implementation Group. This limits your influence going forward, post Examination, except as provided for by TfL.</p> <p><u>Recommendations:</u></p> <ol style="list-style-type: none"> 1. Where the relevant planning authority is given a role in sign off of documents or plans you should request that either you must also sign off on those documents or that prior to sign off the host Borough must consult with you on their content and proposed response.
Impacts from the Scheme	
dDCO Provision	Provision needs to be added. The Borough's only named influence on or notification of implementation of the Scheme comes from the

	Silvertown Tunnel Implementation Group (STIG) which is only guaranteed to meet once a year and timing is at TfL's discretion.
Bond Dickinson's Comments	<p><u>Comments:</u></p> <p>There is no provision on the face of the dDCO for you specifically to be notified of impacts of the Scheme – for example works which might result in closure and there is no provision for sharing of environmental information with you on the face of the dDCO – albeit the Traffic Impacts Mitigation Strategy and the Monitoring Strategy do involve the STIG.</p> <p><u>Recommendations:</u></p> <ol style="list-style-type: none"> 1. The Boroughs should request a set of Protective Provisions be included in the dDCO in relation to the areas of concern in this note which would provide for prior-notification and consultation as well as information sharing. 2. Protective Provisions can also provide for non-emergency notification of tunnel closures, influence on charging if diversion to Rotherhithe tunnel and Tower Bridge/London Bridge is taking place. 3. Protective Provisions could also provide for sharing of information on air pollution and requirements for mitigation not already provided to the STIG. 4. Name the Borough's as consultees in relation to closing the tunnels in non-emergency situations.
Silvertown Tunnel Implementation Group	
dDCO Provision	<p>Article 65.—(1) TfL must establish, chair and fund the reasonable running costs of a consultative body to be known as the Silvertown Tunnel Implementation Group (in this article referred to as “STIG”).</p> <p>(2) STIG will comprise one representative of each of the following bodies—</p> <ol style="list-style-type: none"> (a) TfL (as chair of STIG); (b) the Council of the London Borough of Barking and Dagenham; (c) the Council of the London Borough of Bexley; (d) the Council of the London Borough of Bromley; (e) the City of London Corporation; (f) the Council of the Royal Borough of Greenwich; (g) the Council of the London Borough of Hackney;

(h) the Council of the London Borough of Lewisham;

(i) the Council of the London Borough of Newham;

(j) the Council of the London Borough of Redbridge;

(k) the Council of the London Borough of Southwark;

(l) the Council of the London Borough of Tower Hamlets;

(m) the Council of the London Borough of Waltham Forest; and

(n) any other person or body TfL considers appropriate.

(3) Each body mentioned in paragraph (2)(b) to (n) above must notify TfL of the identity of its nominated representative.

(4) If the chair or any person nominated under paragraph (3) cannot attend a STIG meeting, the nominating body may nominate a person (on an occasional or standing basis, as it determines) to act as the nominating body's substitute representative at the meeting.

(5) STIG may consider the following matters relating to implementation of the authorised development—

(a) implementation of the monitoring strategy in accordance with its provisions;

(b) implementation of the traffic impacts mitigation strategy in accordance with its provisions;

(c) the level of charges from time to time required to be paid for use of the tunnels under article 53 and any exemptions and discounts; and

(d) for a period ending three years after the Silvertown Tunnel has been opened to traffic, reviewing TfL's proposals for cross-river bus services through the Silvertown Tunnel,

and may make recommendations to TfL accordingly.

(6) The first meeting of STIG must be held not less than three years before the date on which the Silvertown Tunnel is expected to be open for public use. Meetings of STIG must be held at least once a year on a date to be determined by TfL, until such time as the monitoring strategy and the traffic impacts mitigation strategy have been implemented in accordance with their provisions, except in the first year after the Silvertown Tunnel has been opened for public use when STIG must meet twice in that year with a gap (so far as practicable) of approximately six months between the first and second meeting. Once the monitoring strategy and the traffic impacts mitigation strategy have been implemented in accordance with their provisions, STIG will meet as determined by TfL, but not more

	<p>frequently than once a year.</p> <p>(7) In order for a meeting of STIG to be quorate there must be present—</p> <p>(a) a representative from at least two of the Councils of the Royal Borough of Greenwich and the London Boroughs of Newham and Tower Hamlets;</p> <p>(b) a representative from TfL; and</p> <p>(c) two other representatives from the bodies listed in paragraph (2)(a) to (n) above.</p> <p>(8) Except as otherwise provided for in this article, STIG may determine its own procedures provided that—</p> <p>(a) all questions or other matters coming before or to be decided by STIG are decided by a simple majority of those present and voting at the meeting;</p> <p>(b) a person appointed as a substitute under paragraph (4) above may cast a vote;</p> <p>(c) in the case of an equality of votes cast the chair will have a second or casting vote; and</p> <p>(d) a vote must be taken if requested by any one representative present.</p> <p>(9) STIG may establish committees, sub-committees and working groups for any purpose it considers appropriate and appoint their membership, which may include persons other than those representatives appointed in accordance with paragraph (3). STIG may delegate any of its functions under paragraph (5) to any such committee, sub-committee or working group.</p> <p>(10) The operation of STIG must be reviewed annually by a committee of STIG consisting of one representative from each of the Councils of the Royal Borough of Greenwich and the London Boroughs of Newham and Tower Hamlets, and representatives of TfL.</p> <p>(11) Failure by any body mentioned in paragraph (2)(a) to (n) above to appoint a representative to STIG, or any defect in any such representative's appointment, will not invalidate STIG's acts or proceedings.</p> <p>(12) Part VA of the Local Government Act 1972 (Access to meetings and documents of certain authorities, committees and sub-committees) and the Public Bodies (Admission to Meetings) Act 1960 do not apply to STIG or to its meetings or proceedings.</p>
<p>Bond Dickinson's Comments</p>	<p><u>Comments:</u></p> <p>Article 65(5) lists areas to be considered by the STIG and that it can make recommendations but creates no obligation on TfL to</p>

	<p>consider recommendations or act on them.</p> <p>Article 65(6) vests power to call meetings in TfL with a wide discretion as to when, one danger of this may be that during half term or public holiday's Borough staff are not available but TfL pushes on with the meeting anyway.</p> <p>Connected to the above is that a quorate does not require attendance of any of the Boroughs. Further, a simple majority means that the Boroughs could be caucused against by TfL. TfL are able to invite any other person or body they consider appropriate and as a quorate is 5, TfL plus its two invitees could pass any recommendation/decision.</p> <p>The Boroughs are also excluded from the STIG review group.</p> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> • Article 65 does not contain sufficient detail on the operation of the STIG, details of its operation can only be found after reviewing the Monitoring Strategy, Charging Policy, Traffic Impacts Mitigation Strategy and other documents, Article 65 needs to be redrafted to pull together elements relevant to the STIG which are split amongst the certified documents. • Recommendations of the STIG should be provided for and TfL compelled to take them into account – this should be expressly provided for. • There should be provision for the Boroughs to request different dates for the STIG meetings. • TfL should not have sole authority to call meetings or act as Chair of the STIG given its role in oversight/review and fact that the Chair has two votes where there is "an equality of votes cast". This could have serious consequences where for example, acting as Chair, TfL push through an amendment to the charging policy for approval by the Mayor (see comment on Article 52 below). • Article 65(2)(n) should give some prior notification / approval requirement or be subject to no objections being raised. • Provision should be made for other members of the STIG to sit on the review group. It should also be clarified whether or not the review group makes recommendations to the wider STIG for changes.
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Specific Concerns of the London Borough of Hackney

User Charging	
dDCO Provision	<p>The charging policy</p> <p>Article 52.—(1) TfL must exercise its functions under this Part in accordance with the charging policy.</p> <p>(2) TfL may revise the charging policy but only after it has—</p>

	<p>(a) consulted in relation to the proposed changes to the policy—</p> <p>(i) organisations it considers representative of regular users of the Blackwall Tunnel and the Silvertown Tunnel; and</p> <p>(ii) the Councils of the London Boroughs of Newham and Tower Hamlets and the Royal Borough of Greenwich;</p> <p>(b) considered the responses to the consultation carried out under sub-paragraph (a); and</p> <p>(c) submitted the proposed revised charging policy to the Mayor of London for approval.</p> <p>(3) Any revised charging policy proposed by TfL will only have effect if it is approved by the Mayor of London, who may approve it with or without modifications.</p> <p>(4) If the Mayor of London intends to approve a revised charging policy with material modifications, the Mayor of London must consult the Councils of the London Boroughs of Newham and Tower Hamlets and the Royal Borough of Greenwich on the proposed modifications and take into account responses to the consultation by the councils.</p>
<p>Bond Dickinson's Comments</p>	<p><u>Comments:</u></p> <p>LBH are not a named consultee notwithstanding the fact that the Charging Policy confirms that they will be notified as part of the STIG.</p> <p>Revisions to the Charging Policy could also change the role of the STIG set out in it.</p> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> • LBH should press to be a named consultee in the dDCO. • The STIG should be responsible for approving a revised charging policy. • Changes to the STIG's role via a change to the Charging Policy must be approved by the STIG unanimously. • The Mayor is Chair of TfL and cannot have a role in approving documents submitted by TfL.
<p>dDCO Provision</p>	<p>Power to charge for use of the tunnels</p> <p>Article 53.—(1) Subject to and in accordance with the provisions of this Part, from the date when the Silvertown Tunnel is first opened for use by the public, TfL may levy charges in respect of motor vehicles using either of the tunnels.</p> <p>(2) The charge payable to TfL for use of the tunnels by any motor vehicle is at such a level for that class of vehicle as TfL may from time to time determine.</p>

(3) TfL may determine different charges (including a nil charge)—

- (a) as between the tunnels;
- (b) for different classes of motor vehicles;
- (c) for different times of the day;
- (d) for different days of the week;
- (e) for different directions of travel; and
- (f) for different methods or means of recording, administering, collecting or paying the charge.

(4) Any charge payable to TfL under this article may be waived, suspended, reduced, compounded or discounted by TfL at any time.

(5) TfL must publish the charges determined under paragraph (3) in a statement of charges in such manner as TfL considers appropriate not later than 56 days before the charges are intended to take effect.

(6) The statement of charges published under paragraph (5) must set out, amongst other things—

- (a) the tunnels in respect of which the charges apply;
- (b) the classification of motor vehicles for the purposes of determining the charge payable by any motor vehicle;
- (c) the times at and days on which the charges will be payable;
- (d) the amount of the charges payable;
- (e) exemptions from charges;
- (f) discounts from charges;
- (g) any documents or equipment specified by TfL under article 54(3);
- (h) payment means or methods; and
- (i) a summary of the applicable enforcement provisions.

	<p>(7) Where any motor vehicle falls within the definition of more than one class of vehicles it is deemed to fall in the class of vehicle bearing the highest charge.</p> <p>(8) References in this Part to classes of motor vehicles are references to the classes defined or described by reference to any characteristics of the motor vehicles or to any other circumstances.</p>
<p>Bond Dickinson's Comments</p>	<p><u>Comments:</u></p> <p>The actual charge is entirely at the discretion of TfL with no requirement to consult on the face of the dDCO. Without that requirement TfL cannot be tested to confirm that they have acted in line with the Charging Policy.</p> <p>As drafted TfL could set a charge resulting in funds accumulating in its general account or set a fund that would not meet the goal of traffic management.</p> <p><u>Recommendations</u></p> <ul style="list-style-type: none"> • Article 52(2), (3) and (4) give a wide discretion to TfL. There should be a requirement to consult and agree with the STIG on TfL's proposed charges. This would simply bring out provisions for the STIG in the Charging Schedule which we would argue should be in the dDCO. • Article 53(4) subverts the charges that may be recommended by the STIG and should be redrafted so as not to give absolute discretion to TfL, perhaps by way of a STIG sub-committee to review/approve operation of 53(4)
<p>dDCO Provision</p>	<p>Application by TfL of charges levied</p> <p>56. The charges payable under this Part, and any penalty charges imposed in connection with this Part, may be applied by TfL in—</p> <p>(a) paying the costs and expenses incurred in planning, consenting, designing, constructing, managing, operating and maintaining the Silvertown Tunnel and any costs associated with financing any of the same;</p> <p>(b) paying the costs and expenses incurred in managing, operating and maintaining the Blackwall Tunnel and any costs associated with financing any of the same;</p> <p>(c) providing such funds as are, or are likely to be, necessary to discharge TfL's obligations contained in any agreement entered into by TfL under article 58 (transfer of benefit of Order, etc.);</p> <p>(d) making payment into any maintenance or reserve fund kept in respect of the Silvertown Tunnel or the Blackwall Tunnel; and</p> <p>(e) making payments to TfL's general fund.</p>

Bond Dickinson's Comments	<p><u>Comments:</u></p> <p>TfL's own Charging Statement states that (my underline):</p> <p>S.1.1 This Charging Statement sets out why a user charge is a critical part of TfL's proposals for the Silvertown Tunnel scheme ('the Scheme') and how TfL will use the power to set and vary the user charges as <u>a way of managing the traffic and environmental effects of the Scheme in the long term.</u></p> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> • Application of charges levied should be restricted to managing the traffic and environmental effects of the Scheme, 56(e) must be removed or replaced with provision for a Scheme specific fund.
Sustainable Transport	
dDCO Provision	[N/A]
Bond Dickinson's Comments	<p><u>Comments:</u></p> <p>No provision made to for sustainable transport on the face of the DCO.</p> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> • Article 56 should make provision for TfL to fund investigations into sustainable transport issues and/or ways to make the tunnel useable by cyclists.

Specific Concerns of the London Borough of Lewisham

Detrimental Impacts on Traffic	
dDCO Provision	<p>Power to charge for use of the tunnels</p> <p>Article 53 [see above]</p>
Bond Dickinson's Comments	<p><u>Comments:</u></p> <p>TfL's discretion under Article 53(2), while made in line with the charging policy, still does not ensure detrimental impacts on traffic are</p>

	<p>taken into consideration when setting charges.</p> <p>There is no consultation with any of the Boroughs on charging on the face of the dDCO though there is in the Charging Policy but only for the opening year, thereafter TfL can vary charges as they consider appropriate.</p> <p>LBL's concern is not clearly set out in the Project Objectives in the Charging Policy.</p> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> • There should be a requirement to consult on charges with LBL given the effect of traffic diversion when the Blackwall Tunnel begins charging. • Consideration should be given to the Project Objectives being incorporated into the dDCO as the test against which pricing is set.
<p>dDCO Provision</p>	<p>“the traffic impacts mitigation strategy” means the document of that description set out in Schedule 14 certified by the Secretary of State as the traffic impacts mitigation strategy for the purposes of this Order and which sets out the process for mitigating any significant adverse localised traffic or traffic-related impacts attributable to the operation of the authorised development, should these be identified during the monitoring activities secured by the monitoring strategy;</p> <p>“the monitoring strategy” means the document of that description set out in Schedule 14 certified by the Secretary of State as the monitoring strategy for the purposes of this Order and which in particular contains commitments in respect of—</p> <p>(a) traffic monitoring;</p> <p>(b) air quality monitoring;</p> <p>(c) noise monitoring; and</p> <p>(d) socio-economic monitoring;</p> <p>Requirement 7 - Monitoring and mitigation strategies</p> <p>7. In carrying out the authorised development, TfL must implement and act in accordance with—</p> <p>(a) the monitoring strategy; and</p> <p>(b) the traffic impacts mitigation strategy.</p>

Bond Dickinson's Comments	<p><u>Comments:</u></p> <p>It will be for the STIG to review that TfL are implementing and acting in accordance with the monitoring strategy and traffic impacts mitigation strategy. This is not however noted in the dDCO but in the Traffic Impacts Mitigation Strategy.</p> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> • Update to the dDCO text to set out the role of the STIG in traffic impacts and mitigation.
Detrimental Impacts on Air Quality	
dDCO Provision	<p>The charging policy</p> <p>Article 52.—(1) [See above for full text of Article 52]</p>
Bond Dickinson's Comments	<p><u>Comment:</u></p> <p>The Charging policy in its Project Objectives has no link to impacts on air quality though Project Objective 5 seeks to minimise any adverse impacts of any proposals on communities, health, safety and the environment.</p> <p><u>Recommendation:</u></p> <ul style="list-style-type: none"> • A clear link to air quality and charging should be considered either on the dDCO or in Protective Provisions.
dDCO Provision	<p>Code of construction practice and related plans and strategies</p> <p>5.—(1) The authorised development must be carried out in accordance with the code of construction practice.</p> <p>(2) No part of the authorised development may be commenced until the following plans and strategies, required by the code of construction practice, have been prepared for that part of the authorised development and (where applicable) approved by the relevant planning authority or the Environment Agency (as the case may be)—</p> <p>(a) Air Quality Management Plan: to be approved by the relevant planning authority;</p>
Bond Dickinson's Comments	<p><u>Comment:</u></p> <p>The relevant LPA may not take into account air quality issues resulting from traffic flows in LBL caused by the Project.</p>

	<p><u>Recommendation:</u></p> <ul style="list-style-type: none"> Require the relevant Planning authority to approve the document in consultation with LBL.
<p>Missed Opportunity to Contribute to Sustainable Transport and in Relation to River Crossings</p>	
<p>dDCO Provision</p>	<p>Article 56</p> <p>Application by TfL of charges levied</p> <p>56. The charges payable under this Part, and any penalty charges imposed in connection with this Part, may be applied by TfL in—</p> <p>(a) paying the costs and expenses incurred in planning, consenting, designing, constructing, managing, operating and maintaining the Silvertown Tunnel and any costs associated with financing any of the same;</p> <p>(b) paying the costs and expenses incurred in managing, operating and maintaining the Blackwall Tunnel and any costs associated with financing any of the same;</p> <p>(c) providing such funds as are, or are likely to be, necessary to discharge TfL's obligations contained in any agreement entered into by TfL under article 58 (transfer of benefit of Order, etc.);</p> <p>(d) making payment into any maintenance or reserve fund kept in respect of the Silvertown Tunnel or the Blackwall Tunnel; and</p> <p>(e) making payments to TfL's general fund.</p>
<p>Bond Dickinson's Comments</p>	<p><u>Comment:</u></p> <p>No provision in the dDCO for sustainable transport or in relation to other river crossings.</p> <p><u>Recommendation:</u></p> <ul style="list-style-type: none"> Instead of payments to TfL's general fund, payments should be made to a dedicated sustainable transport fund or funding to explore and pursue other River Crossings to the east of Blackwall Tunnel.

Specific Concerns of the London borough of Southwark

Impact on Tower Bridge and Rotherhithe Tunnel

<p>dDCO Provision</p>	<p>Application of Part 4</p> <p>38.—(1) Articles 41 to 46, 48 and 49 apply—</p> <p>(a) to the Blackwall Tunnel area on the date of the commencement of construction of the Silvertown Tunnel; and</p> <p>(b) to the Silvertown Tunnel area from the date the Silvertown Tunnel is first open to the public.</p> <p>(2) For the purposes of this article the date of commencement of construction of the Silvertown Tunnel is the date specified in a notice published by TfL in The London Gazette.</p> <p>Closing the tunnels</p> <p>43.—(1) TfL may, whenever in its opinion it is necessary to do so, close the Silvertown Tunnel or the Blackwall Tunnel, whether wholly or partially.</p> <p>(2) Where TfL proposes to close any part of the Silvertown Tunnel or the Blackwall Tunnel, it must except in an emergency—</p> <p>(a) give not less than 7 days' notice in such manner as TfL considers appropriate; and</p> <p>(b) throughout the period of such closure display signs at convenient situations on the roads communicating with the Silvertown Tunnel or the Blackwall Tunnel (as the case may be) giving warning of the closure.</p>
<p>Bond Dickinson's Comments</p>	<p>Comments:</p> <p>The drafting of Article 43 takes no account of impacts on Tower Bridge, London Bridge or the Rotherhithe Tunnel of closing the tunnels.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> • Specific notification should be given to LBL and LBS of closures in advance and should be clearly set out in the dDCO. This is the scenario for which Protective Provisions would be envisaged. • In relation to charging, when the Blackwall Tunnel becomes a toll tunnel account should be taken of LBS position in the dDCO as hosting the neighbouring toll free crossings to which traffic could divert – in relation to prior notification but also being updated with traffic information on usage of the Blackwall tunnel post charging. • Protective Provisions for the protection of road networks and bridges/tunnels in Southwark should be requested which would

	include provision for any mitigation required against harmful impacts.
Impact of increased congestion	
dDCO Provision	<p>The charging policy</p> <p>52.—(1) TfL must exercise its functions under this Part in accordance with the charging policy.</p> <p>(2) TfL may revise the charging policy but only after it has—</p> <p>(a) consulted in relation to the proposed changes to the policy—</p> <p>(i) organisations it considers representative of regular users of the Blackwall Tunnel and the Silvertown Tunnel; and</p> <p>(ii) the Councils of the London Boroughs of Newham and Tower Hamlets and the Royal Borough of Greenwich;</p> <p>(b) considered the responses to the consultation carried out under sub-paragraph (a); and</p> <p>(c) submitted the proposed revised charging policy to the Mayor of London for approval.</p> <p>(3) Any revised charging policy proposed by TfL will only have effect if it is approved by the Mayor of London, who may approve it with or without modifications.</p> <p>(4) If the Mayor of London intends to approve a revised charging policy with material modifications, the Mayor of London must consult the Councils of the London Boroughs of Newham and Tower Hamlets and the Royal Borough of Greenwich on the proposed modifications and take into account responses to the consultation by the councils.</p>
Bond Dickinson's Comments	<p><u>Comments:</u></p> <p>2.1.3 of the Charging Policy states that: <i>The primary function of the user charges is to enable the management of traffic demand for the river crossing. By managing this traffic demand, the other effects of the Scheme can be effectively managed and the Project Objectives met.</i></p> <p><u>Recommendation:</u></p> <ul style="list-style-type: none"> • LBS needs to be consulted on charges given the impact of traffic diversion if too high or too low.
dDCO Provision	“the traffic impacts mitigation strategy” means the document of that description set out in Schedule 14 certified by the Secretary of State as the traffic impacts mitigation strategy for the purposes of this Order and which sets out the process for mitigating any

	<p>significant adverse localised traffic or traffic-related impacts attributable to the operation of the authorised development, should these be identified during the monitoring activities secured by the monitoring strategy;</p> <p>“the monitoring strategy” means the document of that description set out in Schedule 14 certified by the Secretary of State as the monitoring strategy for the purposes of this Order and which in particular contains commitments in respect of—</p> <p>(a) traffic monitoring;</p> <p>(b) air quality monitoring;</p> <p>“the traffic impacts mitigation strategy” means the document of that description set out in Schedule 14 certified by the Secretary of State as the traffic impacts mitigation strategy for the purposes of this Order and which sets out the process for mitigating any significant adverse localised traffic or traffic-related impacts attributable to the operation of the authorised development, should these be identified during the monitoring activities secured by the monitoring strategy;</p> <p>Requirement 7 - Monitoring and mitigation strategies</p> <p>7. In carrying out the authorised development, TfL must implement and act in accordance with—</p> <p>(a) the monitoring strategy; and</p> <p>(b) the traffic impacts mitigation strategy.</p>
<p>Bond Dickinson's Comments</p>	<p><u>Comments:</u></p> <p>The Traffic Impacts Mitigation Statement sets out the process for identifying necessary mitigation. The STIG can make recommendations into investigations of any adverse effects but this is not noted on the face of the dDCO. In general the STIG provisions in the dDCO are light, with its functions and more detail being provided in other documents.</p> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> • dDCO drafting needs to make clear that LBS can ask TfL to investigate adverse effects detected and affecting Southwark. Any clarified drafting should also apply to LBL.
<p>Impact of increased air pollution</p>	
<p>dDCO Provision</p>	<p>Requirement 7 - Monitoring and mitigation strategies</p>

	<p>7. In carrying out the authorised development, TfL must implement and act in accordance with—</p> <p>(a) the monitoring strategy; and</p> <p>(b) the traffic impacts mitigation strategy.</p>
<p>Bond Dickinson's Comments</p>	<p><u>Comments:</u></p> <p>Paragraph 4.3.2 of the Monitoring Strategy states that: <i>Proposals for changes in the monitoring locations [for air quality monitoring] may be made by any member of the STIG if thought appropriate to allow for future impacts to be fully captured during monitoring. STIG is responsible for considering and making a collective recommendation to TfL.</i></p> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> • There is however no provision in the dDCO for this, a requirement should be crafted for air pollution monitoring and reporting.
<p>dDCO Provision</p>	<p>Code of construction practice and related plans and strategies</p> <p>5.—(1) The authorised development must be carried out in accordance with the code of construction practice.</p> <p>(2) No part of the authorised development may be commenced until the following plans and strategies, required by the code of construction practice, have been prepared for that part of the authorised development and (where applicable) approved by the relevant planning authority or the Environment Agency (as the case may be)—</p> <p>(a) Air Quality Management Plan: to be approved by the relevant planning authority;</p>
<p>Bond Dickinson's Comments</p>	<p><u>Comments:</u></p> <p>There may be scope to also include the Boroughs in approvals.</p> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> • Add that LBS (or LBL/LBH) must also confirm or at least be consulted on the air Quality Management Plan or other plans relevant to Southwark (or Lewisham/Hackney).