

Silvertown Tunnel Development Consent Order

London Borough of Hackney

Written Representation

PINS Reference		
Document Number	LBH 02	
Authors	LB Hackney, Project Centre, GVA, Phlorum	
Revision	Date	Description
0	November 2016	Deadline 1 Version

CONTENTS

Summary	3
1. Introduction	4
2. Matters of Support	6
3. Matters of Objection	6
Risk of increased traffic on approach roads to the tunnel in Hackney	6
Lack of contribution to sustainable transport	12
Package of crossings	14
Consistency with policy	16
Draft Development Consent Order	18
4. Conclusions	25

APPENDIX A

Legal review of the draft Silvertown Tunnel Order (dDCO)	26
-----------------------------------------------------------------	----

SUMMARY

- i. The London Borough of Hackney (“LB Hackney”) is a neighbouring borough in respect of the application for the Silvertown Tunnel Development Consent Order and has concerns about the scheme. Whilst LB Hackney is supportive of a package of river crossings in east London, the scheme is coming forward in isolation rather than as part of a package of crossings. LB Hackney has serious concerns with the Silvertown Tunnel proposal and has raised these concerns with Transport for London throughout the development of the scheme and through LB Hackney’s Relevant Representation. This Written Representation expands upon these concerns and should also be read alongside LB Hackney’s Local Impact Report (document reference LBH 01).

- ii. LB Hackney objects to the Silvertown Tunnel proposal due to its concerns in respect of;
 - Serious concerns about the risk of increased motor traffic on approach roads to the tunnel in Hackney if;
 - tunnel tolls are set inappropriately low;
 - fail to be properly inflation-proofed; or
 - are not adjusted to manage demand for the tunnels if the demand is higher than the Assessed Case.
 - Concerns about the contribution to sustainable transport and benefits in respect of;
 - uncertain benefit to local public transport users;
 - lack of benefit to cyclist and pedestrians.
 - Concerns about Silvertown Tunnel not coming forward as part of a package of crossings.

- iii. LB Hackney is concerned that the Development Consent Order as currently drafted will have a negative impact on traffic congestion, air quality and the local community. It is also contrary to the overarching planning policies. LB Hackney’s Written Representation identifies clauses and articles in the draft Development Consent Order which should be revised and also requests appropriate revisions.

1. INTRODUCTION

- 1.1 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 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).
- 1.2 The London Borough of Hackney (“LB Hackney”) is a neighbouring borough in respect of the Silvertown Tunnel proposal and has concerns about the scheme. GVA and Project Centre are acting on behalf of LB Hackney to prepare and coordinate their submissions on the proposed Silvertown Tunnel DCO. Phlorum is providing technical input on air quality matters.
- 1.3 This Written Representation is submitted by GVA on behalf of LB Hackney. Alongside this Written Representation GVA has also submitted a Local Impact Report (LIR) (document reference: LBH 01) to the Examination at Deadline 1.
- 1.4 Whilst LB Hackney is supportive of a package of river crossing in east London, there are serious concerns with the current Silvertown Tunnel proposal. LB Hackney has raised these concerns with TfL throughout the pre-application consultation and within its Relevant Representation.
- 1.5 This Written Representation expands upon LB Hackney’s Relevant Representation and section 42 responses, setting out the detail of LB Hackney’s concerns in respect of;
- Serious concerns about the risk of increased motor traffic on approach roads to the tunnel in Hackney if;
 - tunnel tolls are set inappropriately low;
 - fail to be properly inflation-proofed; or

- are not adjusted to manage demand for the tunnels if the demand is higher than the Assessed Case.
 - Concerns about the contribution to sustainable transport and benefits in respect of;
 - uncertain benefit to local public transport users;
 - lack of benefit to cyclist and pedestrians.
 - Concerns about Silvertown Tunnel not coming forward as part of a package of crossings.
- 1.6 In addition, this Written Representation sets out LB Hackney’s objections in relation to the proposed Silvertown Tunnel’s consistency with planning policy and delivering LB Hackney and wider London’s objectives. It also highlights parts of the draft DCO which LB Hackney is concerned do not deliver TfL’s intentions, and parts of the draft DCO which LB Hackney believe need amending to reflect the objections set out in their Relevant Representation and this Written Representation.
- 1.7 This Written Representation should be read alongside the following documents, which are all submitted at Deadline 1;
- LB Hackney’s Local Impact Report (document reference LBH 01).
 - LB Hackney’s response to the Examining Authority’s First Written Questions (document reference LBH 03).
 - LB Hackney’s response to the Examining Authority’s Rule 17 letter (document reference LBH 04).
- 1.8 LB Hackney has requested that TfL contribute towards some of their costs of preparing the joint Statement of Common Ground. It is understood that TfL will be contributing towards the so called ‘host boroughs’ costs through planning performance agreements, but as yet nothing has been offered to the so called ‘neighbouring boroughs’ who are also spending considerable time and cost on this DCO process. At present, TFL have not agreed to contribute towards LB Hackney’s costs.

2. MATTERS OF SUPPORT

- 2.1 LB Hackney recognises the need for transport capacity across the river in east London to be increased and is supportive of a package of river crossings to address this need. However, the Silvertown Tunnel is coming forward in isolation rather than as a package of crossings.
- 2.2 The draft Silvertown Tunnel DCO proposes to charge for use of the tunnel (and for Blackwall Tunnel) and LB Hackney is supportive of the principle of user charging and believes that user charging needs to continually be applied to manage demand for the tunnel. LB Hackney has concerns with the detail and application of the user charging, as set out under section 3 of this Written Representation.

3. MATTERS OF OBJECTION

- 3.1 This section of the Written Representation sets out LB Hackney's principle concerns in respect of the proposed development. These concerns have been highlighted within LB Hackney's previous responses and representations. This section should be read in conjunction with LB Hackney's LIR (document reference: LBH 01).

Risk of increased motor traffic on approach roads to the tunnel in Hackney

- 3.2 TfL propose to introduce a toll at both Silvertown Tunnel and the Blackwall Tunnel through the Silvertown DCO. TfL's Silvertown Charging Policy (document reference 7.11) explains in paragraph 2.1.3 that "The primary function of the user charges is to enable the management of traffic demand for the river crossings". As explained in paragraph 2.1.5 of the same TfL document, "A secondary reason for the user charge is to provide a means for helping to pay for the design and construction and operation of the Scheme...". From this it is clear that TfL intend the user

charge to be central to managing demand for the tunnel and to manage congestion on its approach roads.

3.3 Whilst LB Hackney supports the principle of user charging and its continued application to manage demand for the tunnel, it has serious concerns about the toll being highly vulnerable to political pressure. As explained in the TfL Charging Policy above, the user charge's primary function is to enable the management of traffic demand. If the toll is not managed effectively there is great concern that there will be increased motor traffic on the approach roads to the Silvertown Tunnel in Hackney. The potential impacts of this are examined in LB Hackney's Local Impact Report (document reference LBH 01). In summary, it is likely that if the user charge does not effectively control traffic flows, there will be a negative impact on LB Hackney (and other boroughs).

3.4 The rationale for these concerns and the points of LB Hackney's objections in relation to the impact of the toll on motor traffic on Hackney's approach roads are set out below.

The mechanism for setting and maintaining the user charge

3.5 The draft DCO proposes that TfL will set the user charge in accordance with the Charging Policy (document reference 7.5) which will become a Certified Document. TfL is able to revise the Charging Policy by consulting with a number of consultees and then submitting the proposed revised Charging Policy to the Mayor of London. The Mayor then has the final responsibility to approve a revised Charging Policy. If material modifications are proposed, the Mayor must consult with the three host boroughs first (and take into account their responses), but the ultimate decision remains with the Mayor.

3.6 LB Hackney objects to this mechanism for setting and revising the user charge due to the concern that the toll will be highly vulnerable to political pressures. It is likely that there will be political pressure to reduce the tolls once the cost of tunnel construction is paid off. Political

pressure has previously impacted on user charging in the case of the central London Congestion charge which has eroded since it was introduced in 2003. LB Hackney is concerned that a similar situation could occur with the Silvertown Tunnel DCO.

- 3.7 The consequence of a reduced user charge would likely mean additional increases of traffic on LB Hackney's road especially around the Homerton area and on the A12. This impact is deemed unacceptable by the borough. Sections 5.1 to 5.12 of LB Hackney's LIR provides further detail on the likely impact.

Silvertown Tunnel Implementation Group (STIG)

- 3.8 Article 65 of the draft DCO provides for the Silvertown Tunnel Implementation Group (STIG) and sets out its structure. LB Hackney is included as one of the bodies involved in STIG. Article 65 (5) of the draft DCO stipulates what STIG may consider and these includes implementation of the monitoring strategy, the traffic impacts mitigation strategy, the level of charges and to review TfL's proposal for cross-river bus services through the Silvertown Tunnel for a specified time period.
- 3.9 It is understood from the TfL's Charging Policy (document reference 7.11) that the initial user charge is to be set by TfL before the Silvertown Tunnel opens to traffic. Paragraphs 3.1.1 to 3.1.4 of the Charging Policy explain that part of the process of setting the initial user charge (and also any subsequent variations to the user charge) will involve TfL consulting with STIG and then submitting the proposed charge to TfL for approval. However, and as set out in detail later within this Written Representation and Appendix A of this Written Representation, STIG is not specified in Article 52 of the draft DCO on the Charging Policy. Furthermore Article 52 of the draft DCO also refers to any revised Charging Policy proposed by TfL needing to be approved by the Mayor of London, who may approve it with or without modifications.

- 3.10 LB Hackney has raised concerns about STIG with TfL and discussed these as part of the process of agreeing a Statement of Common Ground. LB Hackney and TfL's Statement of Common Ground subsequently sets out a summary of the current matters not agreed in relation to STIG. It is unclear from TfL's written documents precisely what TfL propose in terms of the mechanism for setting and amending the user charges, but from discussions with TfL, it is understood that TfL intend to consult with STIG and then make a recommendation to the TfL Board, but that the final decision lies with the Mayor of London.
- 3.11 Assuming this is correct, LB Hackney wish to raise a number of concerns in relation to the formation and role of STIG. The role of STIG is crucial in ensuring that a suitable user charge is set and maintained to ensure that the traffic demand for the tunnel is adequately managed to minimise impact on the approach roads. Four salient concerns are set out below.
- 3.12 Firstly, the draft DCO currently proposes that TfL will be the Chair of STIG. LB Hackney believes that the DCO should require STIG to be a body independent of TfL and the Mayor of London to ensure that STIG is neutral of TfL and the Mayor.
- 3.13 Secondly, the recommendations of STIG in relation to user charges should be binding on the decision maker.
- 3.14 Thirdly, the draft DCO currently allows TfL to be able to bring other parties into STIG. LB Hackney is concerned about this proposal as it could undermine the influence of the affected local authorities.
- 3.15 Fourthly, LB Hackney believe that there should be a commitment in the terms of reference of STIG to capping the future levels of traffic passing through both Blackwall and Silvertown Tunnels to the existing flows using the Blackwall tunnel. The air quality and congestion issues

currently experienced should not worsen due to extra traffic coming through the Silvertown and Blackwall tunnels.

Concern if the user charge is set inappropriately low

- 3.16 As set out above, the setting of the user charge ultimately is a political decision by the Mayor of London. LB Hackney object to this approach to setting the user charge on the basis that if the user charge is set inappropriately low, or potentially is removed, then there could be an increased amount of traffic on Hackney's approach roads. As set out in section 5 of Hackney's LIR (document reference LBH 01), increased traffic flows and congestion will have a negative impact on Hackney's approach roads and subsequently Hackney's community.

Concern if the user charge is not properly inflation-proofed

- 3.17 The proposal intends to use RPI as the index to which the user charge is automatically adjusted. LB Hackney believe that the use of RPI is not a strong enough method of future proofing user charges and that consideration also needs to be given to;

- Large population increases in East London
- Increases in income
- Changes in travel behaviours/willingness to pay/elasticity of demand.

Concern if the user charge is not adjusted to manage demand for the tunnels higher than the TfL Transport Model's Assessed Case

- 3.18 The effectiveness of TfL's modelling to predict user behaviour is of concern to LB Hackney. As detailed in the LIR (paragraph 5.10, document reference LBH 01), the independent review of the model could not review the relationship between charges and the values of time of local residents and "...cannot comment on key input variables specific to the charges applied and their relationship with values of time."

- 3.19 As such LB Hackney does not have confidence in the model to accurately predict the effect of the user charge and therefore the effect of traffic on roads through the borough.

Likely impacts on air quality if the user charge is not adequate

- 3.20 As set out in LB Hackney's LIR (document reference LBH 01), there is concern that the toll charge will not be able to manage the traffic to the level predicted by TfL. LB Hackney is sensitive to the effectiveness and management of the charge given that only part of the network can be managed and there are toll free crossings in close proximity (Rotherhithe Tunnel and Tower Bridge) which could be used by traffic avoiding tolls at the Blackwall and Silvertown tunnels.

- 3.21 The potential risk of diversion to these toll-free crossings could create pressure to fail to inflation-proof tolls at the Silvertown and Blackwall tunnels and let more traffic through these tunnels which have spare capacity built-in. But this would have potentially very serious air quality and congestion impacts when this extra traffic enters Hackney's narrow residential street network.

- 3.22 There is evidence in the LIR (section 5, document reference LBH 02) that despite congestion charging in central London, journey times and hence congestion has increased. This demonstrates the dilution of the effect of such charges and the potential for additional traffic to use the tolled crossings which will lead to a higher number of vehicles on roads within Hackney, particularly the A12 and surrounding local roads, which as demonstrated in the LIR already suffer with significant congestion and air quality issues.

General concerns about robustness of air quality assessment

- 3.23 LB Hackney is concerned that the underlying traffic data used in the air quality assessment of the Silvertown tunnel is insufficiently robust. As set out in LB Hackney's LIR (paragraphs 5.24 to 5.48 document reference LBH 01), the screening method used by TfL to scope out

detailed assessment of air quality impacts in Hackney is not realistic nor is it reasonable. This is a fundamental omission from the assessment and as such LB Hackney strongly objects to TfL's claims that their assessment is adequate.

3.24 As no detailed assessment of air quality impacts on sensitive areas of most concern to the council have been undertaken, LB Hackney cannot accept the conclusions of TfL's assessment of the Silvertown tunnel scheme.

3.25 LB Hackney is also concerned that as a major infrastructure project the Silvertown tunnel will result in a net increase in road traffic emissions that will contradict the Mayor's air quality plans for London and the government's recently overturned plans to meet EU limit values.

3.26 As these concerns are not currently addressed, LB Hackney cannot support the Silvertown tunnel scheme.

Lack of contribution to sustainable transport

3.27 As set out within LB Hackney's LIR (document reference LBH 01), Hackney's residents rely heavily on sustainable modes of transport. The Silvertown Tunnel as currently proposed is a missed opportunity to improve and encourage more people to use sustainable modes of travel. The LIR sets out the impact that the scheme will have on Hackney by not promoting sustainable transport.

3.28 LB object to the tunnel on the basis that it does not does not adequately promote sustainable transport in according with national, regional and local planning policies as there is;

- An uncertain benefit to local public transport users
- a lack of benefit to cyclist and pedestrians.

Uncertain benefit to local public transport users

- 3.29 The tunnel proposes to be able to accommodate double decker buses through the tunnel and LB Hackney supports the principle of the tunnel being capable of accommodating cross river buses.
- 3.30 However, and as set out in TfL and LB Hackney's Statement of Common Ground, LB Hackney has two concerns in relation to bus provision.
- 3.31 Firstly, it is understood from discussions with TfL, that the current proposed routes outlined in the DCO documents are only indicative and as yet there is no funding committed to any bus route through the Silvertown Tunnel. TfL has explained that TfL will be committing to allocate funding to support new bus services through the Silvertown Tunnel through its forthcoming Business Plan, which it is understood is due for publication in late 2016. As LB Hackney has not yet had sight of the Business Plan, at present it understands that there is no financial commitment to cross river bus services. LB Hackney object on the basis that one of the key elements of the case for the scheme is the provision of cross river buses, but there is as yet no evidence to demonstrate that these will be delivering.
- 3.32 Secondly, whilst LB Hackney understands that the current proposed routes are indicative, the current indicative routes do not propose a direct bus service through the tunnel to Hackney.
- 3.33 Finally, as referred to previously in this Written Representation, STIG will have a role in reviewing TfL's proposal for cross-river bus services through the Silvertown Tunnel for a specified time period. As explained already set out, LB Hackney is concerned about the proposed structure of STIG and indeed if TfL is allowed to invite other parties to join STIG. LB Hackney's view is that the proposed structure of STIG is weak and will not ensure that each borough gets sufficient influence and voice in terms on influencing bus planning. LB Hackney is concerned that this could have a negative impact on Hackney.

Lack of benefit to cyclists and pedestrians

- 3.34 There is a national and London-wide drive to encourage more cycle and pedestrian journeys. This is also a priority for the London Borough of Hackney. As evidenced in LB Hackney's LIR (sections 5 and 6, document reference LBH 01), increasing the opportunities for cyclists and pedestrians not only reducing the number of trips made by motor vehicles, but can also have a positive impact on health and well-being, as well as an improved physical environment.
- 3.35 The proposed tunnel does not enable cyclists or pedestrians to cross the river and is a massive missed opportunity. Paragraphs 6.1 to 6.9 of Hackney's LIR refer to the impacts on pedestrians and cyclists of not being able to use the tunnel.
- 3.36 As set out in TfL and LB Hackney's Statement of Common Ground, if TfL cannot accommodate pedestrians and cyclists in the Silvertown Tunnel, LB Hackney ask TfL to commit to bringing forward other crossings which will accommodate walking and cycling.

Package of crossings

- 3.37 LB Hackney is supportive of a package of river crossings in east London. However, the current proposal for the Silvertown Tunnel is being developed in isolation and not coming forward as part of package of crossings. Paragraphs 5.13 to 5.19 of LB Hackney's LIR (document reference LBH 01) refer to the potential impact the proposed tunnel coming forward alone rather than as part of a package.
- 3.38 LB Hackney's is concerned as to whether Silvertown Tunnel will actually be part of a package of crossings. Supporting policy in the London Plan envisages a package of crossings, but as yet there is no evidence of commitment from the Mayor and TfL that others will actually be delivered. There is nothing within the draft DCO that gives certainty over other crossings also coming forward.

3.39 LB Hackney's view has been expressed throughout the pre-application consultation for Silvertown and consultation responses to East London River Crossings (January 2013) and River Crossings Consultation (February 2016), Hackney's view is that a crossing at Gallions Reach should be part of the solution as crossings to the east would reduce the demand on the A12 for strategic longer distance trips by making better use of the North Circular (A406). TfL's Transport Assessment (document reference 6.5) acknowledges in paragraph 7.12.5 that the A12 will continue to accommodate the main strategic trips, thus placing more pressure on Hackney, leading to a negative impact if not part of a package of crossings.

Consistency with planning policy

3.40 LB Hackney believes that the proposal as it stands is not consistent with the relevant planning policies. Section 4 of LB Hackney's Local Impact Report sets out a detailed planning policy appraisal of the project including an appraisal against Hackney's policies, and this should be read alongside this Written Representation.

3.41 In summary, LB Hackney is concerned that the current scheme is not consistent with planning policy as it;

- Does not promote sustainable transport as there are uncertain benefits for local public transport users and no identifiable benefits to pedestrians and cyclists.
- Will potentially have a negative impact on Hackney's community.

3.42 It is contrary to the following key planning policies and guidance;

National Networks National Policy Statement (NNPS)

- Paragraph 3.2 recognises that development should be designed to minimise social and environmental impacts. LB Hackney's LIR demonstrates that

there are significant social and environmental impacts such as a negative impact on air quality (and subsequently health) and thus LB Hackney 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, LB Hackney 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. LB Hackney'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. LB Hackney's LIR suggests that there are many potential negative impacts of the scheme and that potentially there is a net-disbenefit 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 the entire borough is designated as an Air Quality Management Area for nitrogen dioxide and particulate matter.

Hackney's Core Strategy

Policy 6 refers to encouraging forms of development that reduce the need to travel, particularly by car and to improving accessibility for pedestrians, cyclists and public transport. The draft DCO as it stands does not meet the aspirations of this policy.

- Policy 33 sets out that Hackney is committed to prioritising sustainable transport. The Silvertown Tunnel proposal does not prioritise sustainable transport.

Hackney's Development Management Local Plan

DM3 seeks to ensure that development does not have an adverse impact on the environment. LB Hackney's assessment of the scheme in their LIR suggests that the scheme has an adverse impact on the environment including on air quality.

DM42 refers to development being designed to mitigate its impact on air quality. The scheme as it stands does not mitigate impact on air quality.

- DM45 and DM46 require development to make provision for encouraging public transport, cycling and walking. the proposed tunnel does not do this.

Hackney's Transport Strategy

- This vision for the Strategy is: By 2025, Hackney's transport system will be an exemplar for sustainable urban living in London. It will be fair, safe, accessible, equitable, sustainable and responsive to the needs of its residents, visitors and businesses, facilitating the highest quality of life standards for a borough in the capital and leading London in its approach to tackling its urban transport challenges of the 21st century.

- As referred to in the LIR, the proposed Silvertown Tunnel with its attendant increased traffic impact, increased presence of HGV's and negative impacts on air quality is contrary to the strategy.
- The Strategy refers to proposals for a new river crossing in the background document and on Page 61, specifically refers to the risk of additional vehicular traffic on the Hackney road network and specifically on the A12. The same document on pages 55 and 58 refers to the challenge from air quality and congestion and managing roadscape.

The draft Development Consent Order

3.43 In light of the concerns set out in this representation, LB Hackney 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 LB Hackney request are revised, and makes appropriate recommendations for amendment. A summary table is provided below.

Draft DCO Provision	Comments & Required Amendments
General	<p>LB Hackney notes that the borough is not 'named on the face' of the dDCO except for Article 65 in relation to the STIG. LB Hackney is concerned that this will limit its influence going forward in relation to the proposed development.</p> <p>LB Hackney therefore requests that the dDCO provides an explicit role for the borough in relation to the approval of documents or plans by the relevant planning authority. LB Hackney requests that this provision is made either by requiring the borough's formal approval or by identifying the LB Hackney as a consultee to the host borough for any documents or plans that require approval by the host Borough.</p>
General	<p>LB Hackney notes that it's only named influence on or notification of implementation of the Scheme comes from</p>

Draft DCO Provision	Comments & Required Amendments
	<p>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 LB Hackney 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 LB Hackney aside from the role of the STIG in connection with the Traffic Impacts Mitigation Strategy and the Monitoring Strategy.</p> <p>LB Hackney 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 LB Hackney'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>LB Hackney 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>LB Hackney considers that provision should be made for the STIG to be independent of TfL and the Mayor. It objects to the Mayor, as Chair of TfL, having a role in approving documents submitted by TfL.</p> <p>LB Hackney also notes that revisions to the Charging Policy could also change the role of the STIG set out in it.</p> <p>LB Hackney 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</p>

Draft DCO Provision	Comments & Required Amendments
	<p>change to the Charging Policy must be approved by the STIG unanimously.</p> <p>LB Hackney 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>LB Hackney 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>LB Hackney 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>LB Hackney 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>LB Hackney 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, LB Hackney considers that TfL cannot be tested to confirm that they have acted in line with the Charging Policy. It is acknowledged by LB Hackney 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>LB Hackney therefore requests that it is consulted on charge levels given the impact of traffic diversion on Hackney roads.</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</p>

Draft DCO Provision	Comments & Required Amendments
	<p>account or set a fund that would not meet the goal of traffic management.</p> <p>LB Hackney is concerned that Article 52(2), (3) and (4) give a wide discretion to TfL. LB Hackney 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 LB Hackney 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 review/approve operation of 53(4).</p>
<p>Article 56: Application by TfL of charges levied</p>	<p>LB Hackney notes that TfL's own Charging Statement states that:</p> <p><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 LB Hackney'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>LB Hackney 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 Hackney's approach road to the Silvertown Tunnel.</p>
<p>Article 65: The</p>	<p>Article 65(5) lists the areas to be considered by the STIG</p>

Draft DCO Provision	Comments & Required Amendments
<p>Silvertown Tunnel Implementation Group</p>	<p>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 LB Hackney staff may be unavailable, e.g. during school or public holiday. Connected to this is that a quorate does not require attendance of LB Hackney, or any of the neighbouring boroughs. LB Hackney 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. LB Hackney also objects to its exclusion from the STIG review group.</p> <p>It LB Hackney'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 LB Hackney's view that this undermines the purpose of STIG. In addition, the potential for mayoral intervention in user charging as provided by the dDCO also means that user charging is likely to reflect political expediency. LB Hackney has significant concerns that this will result in user charging being unable to fulfil its proposed role of managing demand.</p> <p>LB Hackney therefore requests the following amendments to the DCO:</p> <ul 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

Draft DCO Provision	Comments & Required Amendments
	<p>request different dates for the STIG meetings.</p> <ul style="list-style-type: none"> 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>LB Hackney is concerned that, in discharging Requirement 5, the relevant planning authority may not take into account air quality issues resulting from traffic flows in LB Hackney caused by the proposed development.</p> <p>LB Hackney requires that the DCO includes provision for the relevant Planning Authority to approve the document in consultation with LB Hackney.</p>
<p>Definition of “the traffic impacts mitigation strategy” and the “the monitoring strategy”</p> <p>Requirement 7 - Monitoring and mitigation strategies</p>	<p>The Traffic Impacts Mitigation Statement determines the process to determine the need for and nature of 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>LB Hackney 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>LB Hackney 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 LB Hackney can request that TfL investigates adverse effects detected and affecting the Borough.</p>

Draft DCO Provision	Comments & Required Amendments
	<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>LB Hackney notes however that there is no provision in the dDCO for this. It is LB Hackney’s view that a requirement should be drafted for air pollution monitoring and reporting.</p>

4. Conclusions

- 4.1 In conclusion, the London Borough of Hackney submits this Written Representation to object to the Silvertown Tunnel DCO application.
- 4.2 LB Hackney objects to the scheme on the basis that;
- LB Hackney is likely to experience increased motor traffic on approach roads to the tunnel which will have a negative impact on;
 - Traffic congestion
 - Air quality and the local community
 - Lack of contribution to sustainable transport.
 - The proposal is not coming forward as part of a package of river crossings.
- 4.3 LB Hackney expects to provide further input on likely mitigation measures once their principle objections have been addressed.

APPENDIX A

Legal review of the draft Silvertown Tunnel Order (dDCO)

LB Hackney obtained legal advice from Bond Dickinson in conjunction with the London Boroughs of Lewisham 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 3 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.
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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.
Missed Opportunity to Contribute to Sustainable Transport and in Relation to River Crossings	
dDCO Provision	<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>
Bond Dickinson's Comments	<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).