



Silvertown Tunnel Development Consent Order

London Borough of Southwark

Written response to Rule 17 notification

With reference to Mr Justice Garnham's High Court Judgement of 2 November 2016, in relation to the Department of the Environment Food and Rural Affairs 2015 Air Quality Plan

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1. INTRODUCTION

- 1.1 Under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010, a notification of request for further information was made on 9 November 2016. Responses must be made by Deadline 1: 15 November 2016.
- 1.2 Part 1 of the request is for the applicant.
- 1.3 Part 2 asks the host boroughs and any other Local Planning Authority who has an interest in air quality matters in relation to the application to comment on two questions.
- 1.4 LB Southwark is concerned about the impact of the proposed Silvertown Tunnel on air quality in Southwark, as set out within its Local Impact Report (document reference LBS 01) and Written Representation (document reference LBS 02). The response below cross refers to these documents where appropriate.

2. LONDON BOROUGH OF SOUTHWARK'S RESPONSE

- 2.1 Consideration of 2.1 is partly considered in the borough's LIR, which states:

“On a regional scale, London’s air quality is further spotlighted by the recent High Court Ruling that the government’s failure to act on improving air quality is illegal. Although London is one of the six Clean Air Zone cities where government action is focused on improving air quality, via its 2015 Air Quality Plan¹, the ruling states that the government had erred in law by

¹ Defra. 2015. Improving air quality in the UK Tackling nitrogen dioxide in our towns and cities. Gov.uk

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 hot-spots and Focus Areas such as within Southwark, could be passed down to the local authority to pay. Therefore, any additional burden on the borough's existing poor air quality caused by the Silvertown Tunnel could result in Southwark paying significant costs, which are not currently, nor proposed to be, mitigated."

- 2.2 So the impact of the judgement could be that infraction sanctions are levied against LB Southwark. However, any detailed impacts of the judgement cannot currently be determined due TfL's not having assessed the air quality impact of the Silvertown tunnel on LB Southwark. Without knowing the likely impacts, LB Southwark cannot determine how the Silvertown tunnel will affect its LAQM work towards improving air quality against the EU limit values.

- 2.3 With regard to 2.2, from the information submitted by TfL we simply don't know the answer because the air quality impacts on the neighbouring boroughs of the Silvertown Tunnel scheme have not been assessed in the ES. The borough has argued in their LIR that work towards achieving the limit values under the LAQM regime in the Borough will be made more difficult by allowing the scheme to go ahead, but we can't say precisely how difficult.