



Application by Transport for London for an Order Granting Development Consent for the Silvertown Tunnel Project

Agenda for the Issue Specific Hearing on the Development Consent Order

This document sets out the agenda for the issue specific hearing (ISH) on the Development Consent Order (DCO) that was notified by the Examining Authority (the Panel) on 19 December 2016.

- Date:** Thursday 19 January 2017
Time: 10:00am, room opens from 09:30am
Venue: ExCel London, One Western Gateway, Royal Victoria Dock, London E16 1XL.
Access and Parking: By Underground and DLR via Jubilee Line to Customs House or Prince Regent. Paid parking available at venue and fully disabled accessible.

Purpose of the Issue Specific Hearing

- I. Clarify issues around how the draft DCO is intended to work – what is to be consented, the extent of the powers and what requirements, provisions and agreements are proposed;
- II. Establish or confirm the views of other Interested Parties as to the appropriateness, proportionality or efficacy of proposals.

Participation, conduct and management of hearing

All Interested Parties (IPs) are invited to attend the hearing. Each Interested Party is entitled to make oral representations at the hearing. However, this is subject to the Panel's power to control the hearing.

Guidance under the Planning Act 2008 (PA 2008) and the Infrastructure Planning (Examination Procedure) Rules 2010 provide that at hearings it is the Panel that will probe, test and assess the evidence through direct questioning of persons making oral representations. Questioning at the hearing will therefore be led by a member of the Panel, supported by other Panel members. For most matters the Panel will conduct the hearing in a round table format.

Cross-questioning of the person giving evidence by another person will only be permitted if the Panel decides it is necessary to ensure representations are adequately tested or that a person has had a fair chance to put their case.

The hearing will run until all IPs have made their representations and responded to the Panel's exploration of the matters in accordance with the agenda set.

Please note that the following agenda is indicative and may be amended by the Panel at the start of the hearing session. Furthermore, the Panel

may wish to raise other matters arising from submissions, and pursue lines of inquiry in the course of the discussion which are not on the agenda.

Agenda

- 1. Welcome, introductions and arrangements for this Issue Specific hearing.**
- 2. Brief explanation by the Applicant of the changes made to the initial draft of the DCO in the R1 and R2 versions submitted at Deadlines 1 and 2 (and of any further changes being put forward at today's hearing) [*Maximum 15 minutes*].**
- 3. Opportunity for the host boroughs, other adjacent boroughs and IPs to comment as to whether the revisions to Articles 52 and 53 linked to the revised Document 7.11 Charging Policies and Procedures [REP1-123/4] to be certified under Schedule 14 now provide satisfactory assurance that the user charges would be applied to both tunnels upon opening and that through the operation of the enhanced remit for Silvertown Tunnel Implementation Group (STIG) and the Monitoring Strategy (Document 7.6) [REP1-12//2 and the Traffic Impact Mitigation Strategy (TIMS) (Document 7.7) [REP2-031/2] there would be sufficient flexibility to adjust charges expeditiously so as to ensure that no adverse environmental effects arise.**

In particular, would the clarified measures be sufficient to prevent worsening of air quality and avoidance of any delay to the achievement of Air Quality targets within the area of London that may be affected by the DCO scheme and thus achievement of the targets for London as a whole at the earliest possible date?

The Applicant will be asked to give examples of the circumstances under which the provisions of paragraph 4.5.1 of the revised Document 7.11 [REP1-123/4] might be applied as they are distinct from emergency situations that are provided for under paragraph 4.5.2. In addition, the Applicant will be asked to explain why variations to user charges would not be subject to a run of Environmental Statement (ES) tests and consideration of the assessment (as these steps are omitted in Figure 4.1 of that document) in order to give effect to Policy 9 of Document 7.11?

Are there any other measures that need to be imposed as DCO Requirements, Deemed Marine Licence (DML) conditions or otherwise embodied in the DCO to ensure that there would be no significant adverse environmental consequences arising from the implementation of the Order, for example in relation to noise or flood risk?

Are 'Grampian'-type Requirements necessary to address the need for revocation or modification of Hazardous substance consents or provision of noise mitigation measures outside the Order Limits?

Is a requirement necessary to secure removal of any temporary jetty and other temporary works and re-instatement of land after removal of temporary works?

[NOTE: This agenda item will provide an opportunity to pick-up all other matters needing to be addressed in the DCO arising from the Environmental Issues ISH on 18 January 2017 including construction hours and traffic routing].

The Applicant will be given opportunity to comment on any alterations proposed by local authorities or other IPs as well as to respond to issues raised by the Examining Authority (ExA).

- 4. Consideration of treatment of river areas in the DCO. Opportunity for the Port of London Authority (PLA), Marine Management Organisation (MMO) and Environment Agency (EA) to indicate whether they are now satisfied with the revised wording of the DCO including the dDML in Schedule 12 and the Protective Provisions in Schedule 13 Part 4 or, if not, to explain what further changes are required, including to conditions in Part 2 of the dDML and Requirements in Schedule 2.**

The Applicant will be given opportunity to comment on any alterations proposed by these bodies or other IPs.

- 5. Consideration of other provisions of the dDCO where the ExA or IPs have further questions.**

The issues will be raised sequentially upon the text of the dDCO and its schedules for answer by the Applicant and the ExA will give opportunities to IPs to raise further issues on intervening articles as well as on those raised by the ExA. The Applicant will be asked to respond article by article and schedule by schedule.

[NOTE: Specific amendments as might arise from any agreed changes or sustained objections to Compulsory Acquisition (CA) or temporary possession of particular plots will be considered at the Compulsory Acquisition hearing (CAH) scheduled for 20 January 2017].

The particular issues upon which the ExA wish to hear further comment are as follows:

- 1. General:** Although it is accepted that documents that are not referenced in the DCO do not need to be certified, the Design and Access Statement (DAS) is stated in the Design Principles (Document 7.4) [REP2-029/30] as needing to be read alongside that document, and the General Arrangement (GA) Drawings are also included in diagrams within that document. Please explain why Requirements 3(1) and 4(1) of the dDCO should not require the design "to have regard to" the DAS and GA drawings and thereby also be certified in Schedule 14 of the dDCO. In addition, should not the stakeholder Design Consultation Group also be referenced in Requirement 3(2)?

In the Design Principles in Document 7.4 [REP2-029/30], Design Principle PRBD15 is stated to refer only to noise barriers within the Order Limits. Does it not need to apply to any noise barriers that may be required?

2. **Article 2(1):** Could any potential confusion in relation to interpretive provisions be overcome with the inclusion of the words 'unless otherwise stated' after 'In this Order'?
3. **Article 2(1):** Are all IPs satisfied that the Code of Construction Practice (CoCP) covers all matters that are referred to in the Construction Method Statement (CMS) so that the CMS does not require definition?
4. **Article 3:** To what extent are there issues outstanding with the EA in relation to the dis-applications listed in 3(1)?

Given the answer to FWQ SW6 [REP1-154], can the provision sought in Article 3(2) be justified in such wide terms as drafted, as it has been stated by the Applicant that operational staff will be based in the tunnel services compound to deal with emergencies.

5. **Article 4(2):** Although an explanation of the intent behind the meaning of the word 'adjacent' has been given, it is not explicit within the dDCO that this only refers to land with a common boundary to the Order Limits or to what distance from the common boundary such a provision would apply. The Applicant is invited to consider further how this uncertainty as to the extent of the applicability of the provisions of the dDCO might be overcome.
6. **Article 5(1):** The ExA notes the clarification provided by the Applicant in the supply of composite drawings showing the Works on the Land Plans. Is it intended that there will be a version of the Land Plans submitted for certification of this nature? Nevertheless, the justification provided for such wide limits to horizontal deviation does not cover the ability of the Applicant to undertake works outside the areas defined either for CA or temporary possession by agreement. Thus, even if a pictorial representation of individual limits of deviation might be difficult to show on plans, would it not be possible to specify that laterally limits to deviation would be 'x' metres from the centre lines of linear works and 'y' metres from the boundaries indicated for non-linear works? Moreover, if applying the justification provided to date in relation to the Land Plans, the limits to deviation should be to the extent of land indicated for CA (i.e. land covered pink) and not to the Order limits which include land for temporary possession?

In addition, with regard to vertical deviation, the PLA has highlighted an inconsistency between the table in Article 5 and the Engineering Sections and Drawings. This needs to be corrected. This should be submitted with the post-hearing documents.

7. **Article 25(8)**: What is the justification for omitting the time limit for making a vesting declaration?
8. **Articles 29(4) and 30(5)**: The ExA would welcome further explanation for the inconsistency between these provisions as amended. Without the purpose for possession being specified, how would it be possible to understand what length of occupation would be 'reasonably necessary'. Current legislative practice appears insistent that periods for temporary possession are clearly defined.

In addition, how do these articles maintain all rights of navigation on the river? Under what powers would PLA mooring buoys be re-located temporarily or permanently outside the Order limits or how would reinstatement be governed where this would be possible? Part of the answer may be in paragraph 40 of Schedule 13 Part 4, but this does not seem to provide a complete answer?

9. **Article 58**: Why is there a need to refer to the 'exclusive' transfer of CA provisions needing the consent of the Secretary of State (SoS)? Any transfer including CA functions should be subject to SoS consent? And as substantial compensation could arise from temporary possession, does the need to secure SoS approval also apply to the powers under Articles 29 and 30?
10. **Article 65(12)**: Are the local authorities satisfied that STIG meetings would not be in public nor required (albeit able) to publish minutes and recommendations?
11. **Schedule 1**: Are all IPs satisfied that there is no distinction between integral works and associated development?

In Work No 1, does a definition need to be included of the term 'cellular tunnel'? Nothing in the dDCO confines it to cross passages as opposed to the full cut and cover sections. Would it be preferable to use the description ...'and comprising either a single cellular tunnel or two tunnels...'? It is noted that the byelaws in Schedule 9 still refer to a twin bore tunnel.

The change to authorise works within the river Thames outside the defined 'river area' has not been provided with a clear justification and new plans are promised.

Where in the dDCO is provision for phasing Work No 20 to maintain navigation or for issue of notices to mariners? What in the dDCO would prevent the combined effect of Articles 17, 29 and 30 causing the whole river to be closed to navigation for up to 11 years? What provision is made for the relocation of or maintenance of acceptable access for users of the safeguarded Thames Wharf during construction and for access to be maintained or reinstated to all other wharves

that may be affected by construction?

More generally, in relation to works 'for the purposes of or in connection with the construction of any of the works (*and other development?*) mentioned above', further justification is sought for the breadth of wording used in sub-sections such as (p), (v) and (w), for example 'associated plant and equipment', 'temporary structures, storage areas (including storage of spoil and other materials)...' and 'other buildings, machinery, apparatus, works and conveniences' and 'and other ancillary and administrative accommodation' and the content of sub-section (y) in its entirety.

12. **Schedule 2:** The issue concerning the DAS and GA drawings is relevant to Requirements 3(1) and 4(1).

Please provide further justification for inclusion of Requirement 4(3). Why is this necessary, rather than relying on the ordinary definition of development under the Planning Acts?

With regard to Requirement 5(2), are the relevant planning authorities, the EA and PLA satisfied that these plans only require consultation with the named bodies and not approval?

Do all the subsidiary plans referred to in relation to the CoCP require definition within the dDCO either explicitly or by clear reference to the CoCP or ES?

In relation to Requirement 12(1) are the local authorities satisfied that there is sufficient definition of the terms within the dDCO?

Are the local authorities satisfied with the appeal provisions in Requirement 18, including the replacement of the appeal provisions under s60 and s61 of the Control of Pollution Act (COPA)?

Is a Requirement (or undertaking) necessary to guarantee that new bus services will be promoted through the new tunnel and not merely that any local service buses would be low emission vehicles? How else would this objective of the dDCO be secured?

13. **Schedule 9:** As the Byelaws are intended to be a stand-alone document, do they not need to include a definition of Transport for London (TfL)?

14. **Schedule 12:** As most of the conditions refer to the river as defined in paragraph 1, please explain the justification for a distinction between the river area and the area defined in 3(3) as the area within which licensed activities may take place?

6. Any other matters that IPs wish to raise in relation to the

text of the DCO.

7. Action Points and Close of Hearing

Please note: The agenda may be subject to change and elaboration at the discretion of the Panel. The Panel will arrange for comfort breaks and a lunch break of approximately 1 hour. The hearing will close at the conclusion of business. Interested parties who have registered to speak in advance will be provided with a seat at the table and microphone access. Individuals who have not registered in advance may participate at the discretion of the Panel.