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Subject: NSIP - Proposed Silvertown Tunnel - HSE Deadline 3 Response (SILV-354)
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Importance: High

Application by Transport for London (TfL) for an Order Granting Development Consent – Proposed Silvertown Tunnel

Dear Examining Authority,

In response to Deadline 3 (27 January 2017) and the request for electronic submissions as email attachments, HSE as Interested Party (SILV-354) is sending the following:

1. Summary of representations made by HSE at Issue Specific Hearings (18-19/1).
2. Update on discussions with TfL on Grampian style requirements.
3. HSE update on East Greenwich Gasholder Station.
4. SGN letter to HSE 18 Jan 2017
5. HSE comments on Additional Submission by Nathaniel Lichfield and Partners on behalf of U and I Group Plc.
6. HSE comments on Additional Submission by TfL on proposed non-material changes.
7. HSE update on Studio 338

Kind regards,

Dave Adams

Dave.MHPD.Adams

CEMHD4 Policy, Chemicals, Explosives & Microbiological Hazards Division, Health and Safety Executive.

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[2]

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1. Summary of representations made by HSE at Issue Specific Hearings

Issue Specific Hearing on Air Quality, Noise and Other Environmental Issues - Agenda Item 7.1

Issue Specific Hearing on the Development Consent Order - Agenda Item 3

1. HSE's unchallenged evidence to the examination is to Advise Against.
2. HSE Advises Against the proposed development due to the proximity of a new dual carriageway to two Major Hazard sites, East Greenwich Gasholder Station and Brenntag International Chemicals. A significant part of the proposed new development is within the Inner Zone, i.e. the highest level of residual risk, of both of these sites.
3. HSE's advice is based on the Hazardous Substances Consent held by these two Major Hazard sites.
4. The methodology underlying the advice and the Advise Against remains unchallenged and, Transport for London has not provided any evidence on health safety matters in relation to the East Greenwich Gasholder Station and the Brenntag site.
5. In order for HSE's advice to change the respective hazardous substances consents would have to be revoked or modified in such a way that HSE could remove its Advise Against.
6. As matters stand, HSE understands this is unlikely to happen. HSE has received a letter from SGN, the operator of the East Greenwich Gasholder Station, on 18th January 2017 which indicates that the Autumn 2017 timeframe for revocation of the gasholder hazardous substances consent is overly optimistic and any revocation would be dependent on certain outcomes in any event. The letter is enclosed as item 4 in HSE's submission.
7. In relation to the Brenntag site, HSE understands that the 2012 application for hazardous substances consent has yet to be determined due to a request from the Environment Agency for an updated Flood Risk Assessment. HSE is not aware of an estimated date.
8. Given the uncertainty around the timeframe for revoking or modifying the hazardous substances consents, and to prevent unnecessary delay to the DCO and commencement of the tunnel construction, HSE submits that Grampian-type requirements are necessary for both sites.
9. Prior to the hearings HSE had proposed wording for the requirement to TfL. The provisional first drafts of the Grampian-type requirements were provided to TfL on 6 January 2017 in the updated SoCG to Transport for London. Transport for London has now indicated that it has difficulties with such a requirement. The first-time these difficulties were mentioned to HSE was at a meeting with Transport for London on 13 January 2017.
10. During the hearings TfL raised, for the first time, a new approach to overcoming HSE's Advice Against. This proposal consists of a letter of no impediment from the RB Greenwich together with a

two-headed requirement providing that the tunnel cannot be used until either revocation or modification of the hazardous substances consents or TfL has provided to the Secretary of State a risk assessment and the Secretary of State considers it to be safe.

11. Such an approach is unlikely to change HSE's advice. But, so that HSE can give the matter proper consideration Transport for London has been requested to provide a written explanation of its proposal.

2. Update on discussions with TfL on Grampian style requirements

HSE and TfL have liaised subsequent to the Issue Specific Hearings (ISHs) by email and a subsequent phone-call on 25/1/17.

TfL is submitting for deadline 3 an updated Statement of Common Ground (SoCG) reflecting the current wording of both parties' suggested Grampian style requirement.

3. Update on East Greenwich Gasholder Station

Royal Borough of Greenwich (RB Greenwich) Council has confirmed that the gasholder station still benefits from hazardous substances consent for the storage of natural gas. Furthermore, the current gasholder operator, SGN, has written to HSE (at item 4) stating that they have no plans to allow the hazardous substances consent to be revoked and that they still consider the gasholder station to be an operational asset on the local gas network. SGN also express the view that RB Greenwich's Autumn timeframe for revocation is "optimistic", but this is matter between the council, acting as the Hazardous Substances Authority, and SGN.

According to our records, SGN denotified the gasholder station under the Control of Major Accident Hazard Regulations (COMAH) in March 2015 and has not renotified it since. HSE does not know the actual quantity of natural gas on the station at present, but it will be less than 50 tonnes which is the threshold for renotification under COMAH.

4.



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Tony Williams
HM Specialist Inspector of Health and Safety
CEMHD5C
Regulation Directorate
HSE
BOOTLE
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L20 7HS

18 January 2017

BY EMAIL ONLY

Dear Tony,

The Proposed Silvertown Tunnel

Hazardous Substances Consent – East Greenwich Gasholder Station

I refer to your previous E-Mails in this respect and can confirm that at present SGN has no plans to revoke the HSC for the gasholder site which is still an operational asset and SGN has made no representations, nor has it been invited to make any such representation, to the examining authority in relation to this issue.

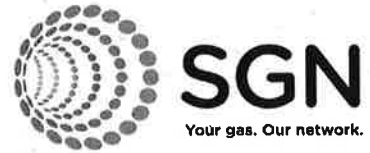
We are aware that Royal Borough of Greenwich (RBG) has made submissions to the examining authority that the timeframe for revocation of the HSC is Autumn 2017: this timeframe is optimistic, and any revocation would be dependent on certain outcomes in any event; including that SGN do not rationalise their portfolio and release assets from the regulated business unless there is a real estate exit or continued energy uses where HSC's may still be required.

Whilst RBG has the power to revoke the HSC (triggering compensation to SGN) it has, as far as we are aware, no plans to exercise such powers and its response to the examining authority confirms that it is hoped that the HSC can be revoked with SGN's agreement.

We are also aware that the HSE has advised against the Silvertown Tunnel but that the HSE and TfL may be looking to include a Grampian condition within the DCO which, we assume, will prevent the commencement of development under the Silvertown Tunnel DCO until such time as the HSC has been revoked and which will allow you to amend your advice against the proposal. We note that the examining authority has identified this as an agenda item for Wednesday's ISH. This seems to SGN to be a sensible way forward in dealing with this matter and we would not object to the imposition of such a requirement as it protects the HSC.

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In relation to a change of control, whilst a change of control may occur at the point at which powers of compulsory acquisition were exercised so as to acquire part of the land covered by the HSC (which may give rise to an automatic revocation if continuance of the HSC is not sought and granted) this is unlikely to occur for some time. As you are no doubt aware, there are powers to apply for continuance orders in any event. Therefore, change of control should not be relied upon in relation to the revocation of the HSC.

Yours sincerely

Richard Swain BSc MRICS
Property Manager
SGN

5. HSE comments on Additional Submission by Nathaniel Lichfield and Partners on behalf of U and I Group Plc

HSE notes in the additional submission made on behalf of U and I Group, its implicit support for HSE's proposed Grampian Requirements, if the revocation and modification of the hazardous substances consents are not completed before a decision on the DCO is made. However, the imposition of conditions on consent is a matter for Royal Borough of Greenwich (RB Greenwich) Council, as the Hazardous Substances Authority, and not for HSE.

However, following our advice on Brenntag Chemical's consent application in 2012, the council did seek our views on further conditions over and above those associated with the application itself. Whilst HSE was able to provisionally identify that these might result in further reductions in our Consultation Zones (as shown on the draft zones in Figure 3 appended to U and I Group's further representation) over those already achieved, we were unable to support their inclusion because they were unnecessary for HSE not to Advise Against the granting of the 2012 consent.

We understand that both the council and U and I Group have subsequently discussed with Brenntag possible further constraints on the hazardous substances consent for their Greenwich site, but to date HSE has not been consulted by the council on any application from the consent holder.

Regarding U and I Group's observations on HSE's advice to the Examining Authority on the proposed Silvertown Tunnel, HSE provides advice when consulted on new development proposals, in this case we are primarily concerned with people at risk on the section of new roadway between the southern portal and the existing dual carriageway leading to the Blackwall Tunnel. HSE does not take existing development into account when providing advice on new development:

6. HSE comments on Additional Submission by TfL on proposed non material changes

HSE notes that NMC5 described in the report submitted by Transport for London to the Examining Authority in January 2017 includes the proposed provision of a new decked carpark on land within our consultation zones around the East Greenwich Gasholder Station and Brenntag Chemicals.

We normally treat car parks specifically for retail or leisure uses as being part of the associated development and provide land use planning advice on that basis. This is because people are likely to be continually moving between the car park and the development and, therefore, would be exposed to a similar level of residual risk no matter where they are.

However, in the case of the decked car park, although it is associated with the O2 Area and adjacent uses, HSE has taken the view that it is sufficiently distant that people would be present only intermittently and, therefore, we have treated it as a stand-alone parking area.

Consequently, HSE advice to the Examining Authority is that if they accept NMC5 as a non-material change then we would not Advise Against the proposed decked cark on public safety grounds.

7. HSE Update on Studio 338

During the DCO Issue Specific Hearing (ISH) on 19th January 2017, the Examining Authority (ExA) asked HSE what its advice is on the planning application which has been submitted to Royal Borough of Greenwich (RB Greenwich) Council for the redevelopment of Studio 338 (planning application reference 16/3945/F).

HSE has now been formally consulted by RB Greenwich Council on this planning application and we have written to them advising them that there are public safety grounds for refusal. This advice is based on both the residual risks from the East Greenwich Gasholder Station and from Brenntag Chemicals, Greenwich.

Following our advice the council asked HSE to consider whether our objection could be overcome, for example by condition. However, further assessment has revealed that HSE's advice is strongly against granting permission for the Studio 338 development and that this strong advice would remain even if the gasholder station consent was revoked and the Brenntag Chemicals consent was modified as applied for in 2012.

In view of the proposed use of Studio 338, any planning condition that would overcome HSE's Advice Against, in particular significantly restricting the number of people present during events, is very unlikely to be acceptable to the applicant. HSE has today (27/1/17) informed RB Greenwich of this additional advice on the Studio 338 application.