

Statement of Common Ground between Transport for London and the Health and Safety Executive

January 2017

Statement of Common Ground between Transport for London and the
Health and Safety Executive

SOCG Reference: SoCG 023

THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK

Silvertown Tunnel

Statement of Common Ground between Transport for London and the Health and Safety Executive

SOCG Document Reference: SoCG 023

Author:

Transport for London

Revision	Date	Description of new version
Version 1	10 November 2016	Version for issue
Version 2	13 January 2017	To include draft Requirement

Contents

1.	Introduction	5
1.1	Purpose of the document	5
1.2	Parties to this Statement of Common Ground.....	5
1.3	Structure of the Statement of Common Ground	5
1.4	Introduction to the Health and Safety Executive position	5
2.	Record of engagement undertaken.....	8
2.1	Key meetings	8
3.	Update on current position between HSE and TfL.....	11
3.1	Introduction	11
4.	Agreement	16

1. Introduction

1.1 Purpose of the document

- 1.1.1 This Statement of Common Ground (SoCG) is submitted to the Examining Authority in relation to the application by Transport for London (TfL) under section 37 of the Planning Act 2008 (the Act) for an order granting development consent for the construction of the Silvertown Tunnel (“the Scheme”).
- 1.1.2 The aim of this SoCG is to provide a clear record of the issues discussed and the current status of those discussions to date. The SoCG can be used as evidence of these discussions in representations to the Examining Authority as part of its examination of the DCO application.

1.2 Parties to this Statement of Common Ground

- 1.2.1 This Statement of Common Ground (SoCG) has been jointly prepared by TfL and the Health and Safety Executive (HSE). It sets out the current position on matters between both parties.

1.3 Structure of the Statement of Common Ground

- 1.3.1 This SoCG comprises four sections:

Section 1 is an introduction to the SoCG and HSE;

Section 2 provides an overview of consultation to date between TfL and the HSE;

Section 3 provides an update on the current position of matters and any agreements; and

Section 4 contains the parties’ signatures.

1.4 Introduction to the Health and Safety Executive position

- 1.4.1 The HSE is a statutory consultee for certain developments within the Consultation Distance of major hazard sites and major accident hazard pipelines. The Silvertown Tunnel southern portal on the Greenwich Peninsula lies within the consultation distance of two major hazard sites:

- East Greenwich Gasholder Station (EGGS)

- Brenntag Inorganic Chemicals Ltd (hereafter Brenntag)

1.4.2 The Greenwich Peninsula portal would be located broadly west of EGGS and to the north of Brenntag. The Greenwich-end Tunnel Services (Portal) Building would be located above the tunnel entrance, with the adjacent Ancillary Tunnel Services Building and its operational compound to the West.

EGGS

1.4.3 EGGS is operated by Southern Gas Networks (SGN). It currently comprises a single water sealed gasholder (Holder No.1) but previously accommodated a second adjacent one (Holder No.2) which was demolished in the 1980s. The land on which Holder No.2 stood has been designated by TfL as land required for the Silvertown tunnel project and would house the tunnel portals, much of the link dual carriageway to the existing Blackwall Tunnel approach, and tunnel ventilation and control buildings. It is understood this land is owned by National Grid.

1.4.4 The gasholder station benefits from Hazardous Substances Consent (HSC) for 182.92te of natural gas, under the Planning (Hazardous Substances) Act 1990. The original 1992 deemed consent has been continued twice (2000 and 2002) and the currently consented land is roughly square-shaped with a 'leg' extending from the south western corner. The site was de-notified from the Control of Major Accident Hazards Regulations (COMAH) in March 2015 but the operator has not indicated that they would allow the HSC to be revoked. RB Greenwich, as the Hazardous Substances Authority (HSA), has the power to revoke a HSC under Section 14 of the Planning (Hazardous Substances) Act 1990.

1.4.5 Whilst the HSC remains in place, gas could be re-introduced and consequently HSE's consultation zones remain in place and it is HSE's policy to continue to provide public safety advice on proposed developments within the zones.

Brenntag

1.4.6 Brenntag at Greenwich is and remains an active Lower Tier COMAH establishment. The operator claimed deemed HSC in 1999 for a range of very toxic substances and quantities. The deemed claim did not include a substance location plan but did specify that all hazardous substances are stored only in moveable containers. Consequently the current Brenntag consent allows any of the very toxic substances named in the consent to be stored anywhere within the site boundary.

1.4.7 In August 2012 the HSE was consulted by Royal Borough of Greenwich (RB Greenwich) on a HSC application from Brenntag to store 199te of generic dangerous to the environment substances in bulk tanks and in moveable containers., HSE advised the HSA and Brenntag on modifications to the consent which provided

flexibility for the company and would simultaneously reduce the off-site risks from potential major accidents at the site and lead to smaller HSE consultation zones compared to the risks from the existing generic consent entitlement. This reduction in the inner and middle consultation zones arises from a hazardous substances location plan that accompanied the 2012 application and allowed HSE to plot the zones from the areas identified in the plan.

- 1.4.8 HSE informed the HSA by letter dated 7 November 2012 that it Did Not Advise Against the granting of HSC. To date, the 2012 HSC application has not yet been determined by RB Greenwich.
- 1.4.9 Based on the current 1999 deemed consent, almost all of the proposed new link dual carriageway and the ventilation and control buildings at the Greenwich end of the tunnel would fall within the Inner Zone of the Brenntag site. HSE would advise against the proposed application because of the potential for a large number of people to be harmed in the event of a release of toxic gas from the Brenntag site. All people exposed to such a release would be affected, some would be seriously injured and the most vulnerable could be killed.
- 1.4.10 If RB Greenwich grants the 2012 application to modify the HSC subject to the HSE's suggested conditions, the extent of the inner consultation zone may reduce such that HSE no longer advises against the scheme.

Licensed explosive site

- 1.4.11 Certain land required during the tunnel construction for temporary works or site compounds falls within the safeguarding zones of an area licensed for the handling of explosives under part 5 of the Dangerous Substances in Harbour Area Regulations 1987. The granting of the DCO might prevent explosives being handled there for the duration of the tunnel construction. After completion, HSE's Explosives Inspectorate will have no objection to the tunnel development, as it will not impinge upon the licensed explosive site.
- 1.4.12 During the construction phase, land controlled by General Marine (Tugs and Barges) Ltd is to be included in the "temporary land taken for temporary works or site compounds". Therefore during the construction phase, General Marine would be unable to handle any explosives at their premises, unless they can ensure that the area is cleared prior to explosives handling. This constraint may adversely affect the commercial viability of the licence holder.

2. Record of engagement undertaken

2.1 Key meetings

2.1.1 A summary of the key meetings and correspondence that has taken place between TfL and the HSE is outlined in the table below.

Date	Form of correspondence	Key outcomes and points of discussion
4 Nov 15	Meeting with TfL and HSE at HSE offices in Bootle	<ul style="list-style-type: none"> • Update on the scheme and timescales for consultation and application • Clarification of HSE role as a statutory consultee and in providing planning guidance • Application falls within the consultation distances of two major hazard sites • Updates on status of HSC's held by SGN and Brenntag • Discussion on possible use of a Grampian condition • Next steps
18 Nov 15	Consultation response	<ul style="list-style-type: none"> • Application falls within the consultation distances of two major hazard sites • Gas and pipelines- TfL need to keep in contact with the local Gas Distribution Network operator • General comments on Hazardous Substances Consent and electrical safety • At this stage the proposed scheme did not appear to impinge on any licenced Explosives sites.

23 August 16	Phone Conference with the HSE and TfL.	<ul style="list-style-type: none"> • Update on layout of Greenwich portal and roadways (TfL) • HSE position – MH sites and Explosive Licence • Agreement on benefit of SoCG. • HSE mentioned the possible use of a “Grampian” style requirement
30 Aug 16	Letter from HSE to TfL	<ul style="list-style-type: none"> • The HSE statutory function and likely advice; • The location of the proposed scheme in relation to the consultation zones for EGGS and Brenntag; • HSE’s advice can be addressed through powers under the Planning hazardous substances Act to revoke or modify HSC. • The location of construction works in relation to a licenced explosive site; and • Next steps including a possible “Grampian” style requirement.
30 Aug 16	HSE Relevant Representation	A summary of the letter above.
26 Oct 16	Phone conference with the HSE and TfL.	<p>Discussion included:</p> <ul style="list-style-type: none"> • Update on the 2012 application for variation of the Brenntag consent with RB Greenwich;

Statement of Common Ground between Transport for London and the
Health and Safety Executive

SOCG Reference: SoCG 023

		<ul style="list-style-type: none"> • Answer and response to Examining authority for the first written question HSS6; • Limits of deviation and occupation of the south landing building; • Next Steps
13 Nov 17	Phone conference between TfL and HSE	<ul style="list-style-type: none"> • To discuss inclusion of draft text for a Grampian style requirement • For TfL to update HSE on the implications of any “non-material” changes to the DCO on the Southern Tunnel Approach.

3. Update on current position between HSE and TfL

3.1 Introduction

3.1.1 As outlined in section 2, TfL and HSE have been in dialogue regarding the scheme since 4 November 2015 and both parties will continue that dialogue throughout the DCO examination to seek to resolve any outstanding matters. The table below outlines the current position as agreed by TfL and HSE in relation to the issues under discussion. The parties will provide a further iteration of this SOCG to update the ExA on the position in relation to each of these issues as the examination progresses. This update is provided on the basis of the current understanding of the deviations permitted to the areas of the scheme that are subject to HSE's advice. Sheet 1 of 3, revision P02 of the Works Plans (APP-008) shows the extent to which the Southern Tunnel Approach may deviate. It is not possible for the Southern Tunnel Approach to deviate closer to the Brenntag site. It may be possible for part of the Southern Tunnel Approach to deviate further from the Brenntag site but the extent of the deviation within the Order Limits is insufficient to change HSE's advice. It is possible within the Order Limits for the Southern Tunnel Approach to deviate closer to the EGGS. This would not change HSE's advice. Information provided to HSE by TfL indicates that the Southern Portal Building will contain plant and equipment and will not normally be occupied. If the building were to be occupied then HSE would not advise against provided that not more than two storeys of the building were occupied and there were less than 100 occupants.

	Issue	Current position	Update on issue	Record of discussion
--	--------------	-------------------------	------------------------	-----------------------------

Statement of Common Ground between Transport for London and the Health and Safety Executive

SOCG Reference: SoCG 023

<p>3.1.2</p>	<p>HSE advises against the scheme on the basis that the scheme falls within the inner consultation zone for the EGGS which is a major accident hazard site with a current Hazardous Substances Consent.</p>	<p>HSE’s advice against the scheme is based on the current consented status of the sites, and does not (and is not required to) take account of the current operational status of the site.</p> <p>HSE's advice against the Scheme is capable of being addressed through existing planning powers in the Planning (Hazardous Substances) Act 1990 – which might allow the relevant HSA to modify or revoke the relevant HSCs – which could reduce the major accident risks such that the HSE would no longer advise against the Scheme.</p> <p>The HSE would be prepared to reconsider its advice if the consented status of the site changes.</p>	<p>November 2016: TfL and the HSE will continue the dialogue with RB Greenwich and the owner/operator of the EGGS to explore updating the consented status of the site to reflect its operational status.</p> <p>In the event that the HSC issue is not resolved before the determination of the DCO application, it would be possible to include a “Grampian” style Requirement in the DCO which would result in HSE withdrawing its advice against the scheme. The wording of such a Requirement would prevent the use of the Silvertown Tunnel until such time as the HSC for the two major hazard sites is revoked or modified such that HSE no longer advise against the scheme.</p> <p>Update January 2017: The hazardous substances consent has not yet been revoked or modified. The HSE suggests the following requirement is included in the dDCO to address this</p>	<p>Phone call between HSE and TfL on 26/10/16.</p>
--------------	---	--	---	--

Silvertown Tunnel

Statement of Common Ground between Transport for London and the Health and Safety Executive

SOCG Reference: SoCG 023

		<p>The scheme proposes to acquire permanent rights over part of the land owned by SGN around the EGGS. The HSC will be automatically revoked unless an application for continuation of consent has been submitted prior to the change in control of part of the land.</p>	<p>issue:</p> <p><i>No part of the Silvertown Tunnel [as defined in Article 2 of the Development Consent Order] is to be occupied or used by the public and no building at the tunnel services compound at the south end of the Silvertown Tunnel [insert approved plan reference] is to be occupied or used until the hazardous substances consent for the East Greenwich Gasholder Station site has been revoked in accordance with the Planning (Hazardous Substances) Act 1990 as amended, and a copy of the revocation has been submitted to the Health and Safety Executive by the Hazardous Substances Authority.</i></p> <p>TfL raised concerns regarding this Grampian condition during the ISH on Noise, Air quality and Environmental Issues on 180117 and at the ISH on the draft DCO on 190116. TfL suggests the following Grampian condition:</p> <p><i>The Silvertown Tunnel must not be opened for use by the public and the tunnel services buildings at the South Portal comprised in Work No. 12 must not be</i></p>	
--	--	---	---	--

Statement of Common Ground between Transport for London and the Health and Safety Executive

SOCG Reference: SoCG 023

			<p><i>occupied after their practical completion until:</i></p> <ul style="list-style-type: none"> <i>a) the hazardous substances consent for the East Greenwich Gasholder Station site has been revoked in accordance with the Planning (Hazardous Substances) Act 1990; or</i> <i>b) TfL has submitted to the Secretary of State an assessment of the risks to the public associated with the authorised development operating in the vicinity of the East Greenwich Gasholder Station site and, on the basis of that risk assessment and following consultation with the Health and Safety Executive and the Hazardous Substance Authority, the Secretary of State has confirmed in writing that the Silvertown Tunnel may open to public use and that the tunnel services buildings at the South Portal comprised in Work No 12 may be occupied.</i> <p>Discussions between the HSE and TfL will continue on these options.</p>	
--	--	--	--	--

Silvertown Tunnel

Statement of Common Ground between Transport for London and the Health and Safety Executive

SOCG Reference: SoCG 023

<p>3.1.3</p>	<p>HSE advice against the scheme on the basis that part of the scheme falls within and to the South of Brenntag an active Lower Tier COMAH establishment with an HSC for a range of toxic substances and quantities.</p>	<p>In 2012 Brenntag submitted an application to the Royal Borough of Greenwich (RB Greenwich) to amend their HSC.</p> <p>The HSE on request of the RB Greenwich provided possible amendments to the HSC application.</p> <p>To date, the 2012 application has not been determined and the HSE cannot include it in their advice on the Silvertown Tunnel scheme.</p> <p>If RB Greenwich grants the application to modify the HSC subject to the HSE's suggested conditions the extent of the inner consultation zone may reduce such that HSE no longer advises against the scheme.</p> <p>The scheme proposes to acquire permanent rights over part of the land occupied by Brenntag. The HSC will be</p>	<p>November 2016: HSE have recently had liaison with the Royal borough of Greenwich on the conditions in relation to the application to amend Brenntag's HSC (application number 12/1247/H Consent for the storage of hazardous substances).</p> <p>TfL have also been in contact with Royal Borough of Greenwich officers who have advised that it was their intention to determine this application "within a few weeks".</p> <p>The Royal Borough of Greenwich are waiting for an updated Flood Risk Assessment from Brenntag before determining the application.</p> <p>Furthermore TfL are maintaining an ongoing dialogue with Brenntag in relation to the permanent acquisition of parcels of their land for the permanent works and in relation to the temporary occupation of parcels of their land for the purposes of the construction of the works.</p>	<p>Phone call between HSE and TfL on 26/10/16.</p>
--------------	--	--	--	--

Statement of Common Ground between Transport for London and the Health and Safety Executive

SOCG Reference: SoCG 023

		<p>automatically revoked unless an application for continuation of consent has been submitted prior to the change in control of part of the land.</p> <p>The application for continuation of consent would be another opportunity to include a hazardous substances location plan if this has not been achieved by variation of consent. It may be possible to reduce the inner zone such that HSE no longer advises against the scheme.</p>	<p>The HSE and TfL will continue to update each other on progress of the application and relevant communication with Brenntag.</p> <p>In the event that the HSC issue is not resolved before the determination of the DCO application, it would be possible to include a “Grampian” style Requirement in the DCO which would result in HSE withdrawing its advice against the scheme. The wording of such a Requirement would prevent the use of the Silvertown Tunnel until such time as the HSC for the two major hazard sites is revoked or modified such that HSE no longer advise against the scheme.</p> <p>Update January 2017: The hazardous substances consent has not yet been revoked or modified. The HSE suggests the following requirement is added to the dDCO to address this</p>	
--	--	--	---	--

Silvertown Tunnel

Statement of Common Ground between Transport for London and the Health and Safety Executive

SOCG Reference: SoCG 023

			<p>issue.</p> <p><i>No part of the Silvertown Tunnel [as defined in Article 2 of the Development Consent Order] is to be occupied or used by the public and no building at the tunnel services compound at the south end of the Silvertown Tunnel [insert approved plan reference] is to be occupied or used until the hazardous substances consent for the Brenntag Inorganic Chemicals Ltd site has been modified in accordance with the Planning (Hazardous Substances) Act 1990 as amended, and details of the relevant modifications have been submitted to the Health and Safety Executive in writing by the Hazardous Substances Authority, and the Health and Safety Executive has advised in writing that it does not Advise Against the authorised development.</i></p> <p>TfL raised concerns regarding this Grampian condition during the ISH on Noise, Air quality and Environmental Issues on 180117 and at the ISH on the</p>	
--	--	--	--	--

Statement of Common Ground between Transport for London and the Health and Safety Executive

SOCG Reference: SoCG 023

			<p>draft DCO on 190116 . TfL suggests the following Grampian condition:</p> <p><i>The Silvertown Tunnel must not be opened for use by the public and the tunnel services buildings at the South Portal comprised in Work No. 12 must not be occupied after their practical completion until:</i></p> <p>a) <i>the hazardous substances consent for the Brenntag Inorganic Chemicals Ltd site has been modified in accordance with the Planning (Hazardous Substances) Act 1990, and details of the relevant modifications have been submitted to the Health and Safety Executive in writing by the Hazardous Substances Authority, and the Health and Safety Executive has advised in writing that the Silvertown Tunnel may open to public use and the tunnel services buildings at the South Portal comprised in Work No. 12 may be occupied; or</i></p>	
--	--	--	--	--

Silvertown Tunnel

Statement of Common Ground between Transport for London and the Health and Safety Executive

SOCG Reference: SoCG 023

			<p><i>b) TfL has submitted to the Secretary of State an assessment of the risks to the public associated with the authorised development operating in the vicinity of the Brenntag Inorganic Chemicals Ltd site and, on the basis of that risk assessment and following consultation with the Health and Safety Executive and the Hazardous Substance Authority, the Secretary of State has confirmed in writing that the Silvertown Tunnel may open to public use and that the tunnel services buildings at the South Portal comprised in Work No 12 may be occupied.</i></p> <p>Discussions between the HSE and TfL will continue on these options.</p>	
3.1.4	Certain land required during the tunnel construction for temporary works or site compounds falls within the safety distances of	TfL have been advised by the landowner of the Thames Wharf site that all current leases will expire in advance of the commencement of the Silvertown Tunnel Project. TfL	TfL will continue to keep the HSE updated on this matter.	

Statement of Common Ground between Transport for London and the Health and Safety Executive

SOCG Reference: SoCG 023

	<p>an area licensed for the handling of explosives under the Dangerous Substances in Harbour Area Regulations 1987. This land is controlled by General Marine (Tugs and Barges) Ltd. Granting the DCO is likely to affect the types and quantities of explosives that can be handled at this location.</p>	<p>have made a commitment to provide assistance with relocation and TfL have met with General Marine in this regard.</p>		
--	--	--	--	--

4. Agreement

Signed	
Name	David Rowe
Position	Silvertown Tunnel project sponsor
Company	Transport for London
Date	27/01/17
Signed	
Name	David Painter
Position	HM Principal Specialist Inspector
Company	Health and Safety Executive
Date	27/01/17

Statement of Common Ground between Transport for London and the
Health and Safety Executive

SOCG Reference: SoCG 023
