

## Summary of oral evidence given 17<sup>th</sup> January on Traffic/Transport issues ISH

Friends of the Earth – Contact Jenny Bates, [jenny.bates@foe.co.uk](mailto:jenny.bates@foe.co.uk)

1. Friends set out some points orally in response to the ExA's questions on Traffic/Transport issues (<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010021/TR010021-000939-Traffic.Transport%20Modelling,%20Forecasting%20and%20User%20Charging%20and%20Economic%20Issues%20Agenda%2017.01.2017.pdf>)
2. We referred to the fact that TfL seem to propose to set tolls or user charges such that there would be overall less traffic - but that TfL admit (Transport Assessment 7.3.66) that there would be “release of queued traffic” north and south of the river a bit further away from the river (if traffic got across the river quicker it would just be held up at the next pinch points). In which case the scheme is effectively a hugely expensive congestion redistribution scheme.
3. However it could well be that this is not the scenario that we would end up with. For instance it is understood that TfL do not include within generated traffic actual new trips (just redistribution and modal shift are assumed), and tolls/charges could in future be altered. Indeed if a London-wide ULEZ is put in place for all vehicles types combined with London-wide road pricing (as we propose) this could completely change the effect of the tolls/charges on the crossings (as all London would be subject to tolls/charges)
4. Further, the baseline traffic could be quite different to what has been assumed, which is for an assumed traffic increase. It is understood that the ULEZ has not been incorporated, and this should have an effect on traffic levels. And the importance of this is that if there was less traffic in the baseline than TfL assume, that would leave more road space available to be filled up with traffic as a result of the scheme – and so more traffic would be attributable to the scheme (and so more environmental impacts too).
5. Instead traffic and congestion could be re-distributed in other much better and cheaper ways such as simply holding traffic further back in stages so that Blackwall is not the pinch point that it is. Indeed, there was reference, by Mr King for TfL (I believe under question 3) to the fact that Blackwall was not that far off or over capacity. Thus it would not take much to reduce the pressure on Blackwall – and it is known that a bit less traffic can have a considerable effect on reducing congestion (just as a bit more traffic can considerably worsen congestion). And in response to my point on this TfL said that even if it were possible to “throttle back” traffic at Blackwall, that wouldn't give the opportunity to increase bus provision the scheme would – but we pointed out that effectively TfL have admitted that they could throttle back the traffic at Blackwall, but that this scheme becomes a bus scheme. And we stated that TfL could increase bus provision on Blackwall as it stands, and do more to prioritise buses on the approach (together with throttling back traffic), and anyway could build new crossings for bus and other non-vehicle modes.

6. We referred to how new crossings for light transport options are cheaper (based on what Professor John Whitelegg said at the Thames Gateway Bridge/TGB Public Inquiry). Thus a DLR option, which could be combined with walking and cycling, and even maybe with light busses should be a cheaper option, and there could be other such crossing(s) including for buses only combined with walking and cycling.
7. Indeed it is a full package of non-road options which TfL has never evaluated – eg one to include one or more crossings for DLR/bus/walking and cycling, a multi-stop fast ferry (the main regeneration sites face each other across the river), and combined with London-wide road user charging. And social benefits should be stronger from investment in a package of walking, cycling and public transport measures, which benefits all. By contrast, as Newham admitted it had discomfort over, this scheme is understood to facilitate long-distance commuting – and we made the point that for long-distance journeys the toll is a much smaller proportion of their cost, compared to locals making shorter journeys.

## Summary of oral evidence given on 18<sup>th</sup> January 2017 on Air Quality as part of Environmental ISH

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### SUMMARY

- I referred to a report about 20mph zones
- I recapped on traffic uncertainties and how with lower baseline traffic levels would mean more space to be filled up by traffic from the scheme resulting in more traffic attributable to the scheme
- I referred to a passage in a report by the Environmental Audit Committee (EAC) in relation to the National Networks NPS
- the above refers to the McCracken QC opinion which followed Clean Air in London's (CAL) clarification from the EU
- I referred to the EAC report's support of our view, and that of the Inspector in his report on London Plan alterations in regard to the NN NPS point
- I referred to the fact that the recent Client Earth case ruling gives further clarity through the requirement to reduce exposure.
- I stated that TfL are still referring to the NN NPS test in their 8.33 updated air quality document
- I referred to TfL's use of comparing numbers of places getting worse or improved air is irrelevant, as per CAL's clarification
- I referred to an issue arising out of the Traffic/Transport ISH on the release of queued traffic, and whether all places affected are fully included in the air quality study area and assessments
- I mentioned that there is 1 place with a large worsening, against Objectives requirements, relevant to AQMA question 4.12.
- there is also under Limit Value compliance table 2.8 a receptor which would see a 0.3 increase taking it over the 40 level, and others which would get close to 40 – and which a little more traffic/more attributable to the scheme could have a worse impact.
- TfL admit in response to Rule 17 that they will have to re-do their compliance assessment, adding their work to Defra's new assessment (based on stronger measures but also from a more realistic baseline) which could affect levels – and while TfL have uplifted their work it is not clear if they are saying they have pre-empted Defra's.
- TfL propose to re-do the compliance assessment just prior to opening but the scheme would then be built and it is unclear what then would happen. It cannot be allowed for the scheme to be granted permission in the hope that the compliance assessment does not result in a result which would have required refusal – thus it must be refused.
- I referred to the WHO finding health effects below EU legal limits and even their Air Quality Guideline levels, and that they say there is no safe level of exposure to PM pollution
- I referred to how there is no such thing as a clean vehicle due to the non-exhaust emissions.
- I referred to the EXHALE Kings project and to the Ella Roberta foundation

## MAIN TEXT

1. Friends set out some points orally in response to the ExA's questions on Air Quality (<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010021/TR010021-000940-Air%20Quality,%20Noise%20and%20Other%20Environmental%20Issues%20Agenda%2018.01.2017.pdf>), at the opportunity of 4.13 ("Do any other IPs have any further updates in relation to air quality assessment and monitoring matters?"), which we set out below.
2. We commented in relation to ExA's question 4.9 that the City of London had done a study and found that "NO<sub>x</sub> emission factors are higher for petrol vehicles over 20mph drive cycles compared to 30mph drive cycles; for diesel vehicles they are lower" and "given the higher contribution of diesel vehicles to emissions of NO<sub>x</sub>, this is a significant result", and that "PM<sub>10</sub> emission factors are lower for both petrol and diesel vehicles over 20mph drive cycles compared to 30mph drive cycles; the exception is vehicles with engines over 2.0 litres in size" (<https://www.cityoflondon.gov.uk/business/environmental-health/environmental-protection/air-quality/Documents/speed-restriction-air-quality-report-2013-for-web.pdf>).
3. We commented in relation to particularly question 4.10. We referred to the uncertainties in the traffic assumptions, and about how with lower baseline traffic levels would mean more space to be filled up by traffic from the scheme resulting in more traffic attributable to the scheme – all of which we had spoken about the day before in the Traffic/Transport ISH (and set out in our separate document for D3).
4. I read out a passage referring to the National Networks NPS test for compliance with EU law on air pollution – from a report by Parliament's Environmental Audit Committee/EAC on Heathrow. This described a view which we hold ie that of disagreement with the NN NPS approach that it is ok to worsen air pollution just because elsewhere in the Air Quality Zone (in this case London) would have even worse air (with the argument being that the place with worst air, not the scheme, would be delaying compliance with EU law). However this was not a passage we had written, but rather that of TfL's Richard de Cani, and also refers to evidence of Daniel Moylan on behalf of the Mayor in relation to schemes not leading to a deterioration in air quality. See paragraphs 40 to 43: <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmenvaud/389/389.pdf> However that same test is now being relied on by TfL with this scheme, but this should not be relied on and is not compatible with EU law, and this scheme would lead to deterioration in air quality but should not be allowed to do so.
5. As referred to in the EAC report Clean Air in London(CAL) commissioned an option from Robert Mc Cracken <http://cleanair.london/legal/clean-air-in-london-obtains-qc-opinion-on-air-quality-law-including-at-heathrow/attachment/cal-322-robert-mccracken-qc-opinion-for-cal-air-quality-directive-and-planning-signed-061015/> which particularly addressed this issue, supporting our view - see from paragraph 58, particularly paragraph 59. This followed CAL's

clarification from the EU that limit values must be “complied with throughout the territory of any given air quality zone”

[http://cleanair.london/legal/clean-air-in-london-obtains-gc-opinion-on-air-quality-law-including-at-heathrow/attachment/cal-304-letter-of-clarification-from-the-commission-190214\\_redacted-5/](http://cleanair.london/legal/clean-air-in-london-obtains-gc-opinion-on-air-quality-law-including-at-heathrow/attachment/cal-304-letter-of-clarification-from-the-commission-190214_redacted-5/), see paragraph 2.

6. I referred to the fact that the EAC report and a Planning Inspector’s report on the London Plan had supported the view we hold.
7. The EAC state “[on the Davies Commission on airport capacity relying on the NN NPS test]...*This would make no sense in terms of protecting public health and wellbeing. The Government should make clear that this is not the position it intends to take when assessing the scheme for compliance with the Directive.*” (from paragraph 43 as referred to above). The report also stated “The Government should be clear that significant deterioration in air quality on the roads leading to Heathrow will not be permitted simply because another area of London is more polluted.” (from the summary). Both from <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmenvaud/389/389.pdf> as above.
8. The Inspector’s report on changes to the Mayor’s London Plan alterations (following evidence from Friends of the Earth and CAL) made clear that it was not ok to worsen air just because elsewhere in London was worse. See <https://www.london.gov.uk/file/576100/download?token=lecCfrDS> section on Air Quality from page 11 (12 electronic), from paragraph 48.
9. However I made the point that there is further clarity now following the High Court ruling in the Client Earth 2 case (of 2 November 2016 <http://www.clientearth.org/major-victory-health-uk-high-court-government-inaction-air-pollution/> ) in particular in relation to references to reducing exposure. For instance in Mr Justice Garnham’s conclusions (paragraph 95) he says that the Secretary of State must “choose a route to that objective [of aiming to achieve compliance by the soonest date possible] which reduces exposure as quickly as possible...”. This ruling must be material and relevant to take into account, and clearly shows how exposure must be reduced across the Zone.
10. However I stated that TfL have continued to rely on the NN NPS test – not only in their Rule 17 response (at 1.4.4 and 1.4.5) but also in the Updated Air Quality and Health Assessment (their document 8.33, and also REP2-041, at paragraph 2.5.5).
11. I referred to the fact that TfL refer to numbers of places which would have better and those which would have worse air quality as a result of the scheme, and how it is irrelevant to make any comparison. Indeed CAL’s clarification from the EU ([http://cleanair.london/legal/clean-air-in-london-obtains-gc-opinion-on-air-quality-law-including-at-heathrow/attachment/cal-304-letter-of-clarification-from-the-commission-190214\\_redacted-5/](http://cleanair.london/legal/clean-air-in-london-obtains-gc-opinion-on-air-quality-law-including-at-heathrow/attachment/cal-304-letter-of-clarification-from-the-commission-190214_redacted-5/)) is clear that averaging is not appropriate (paragraph 2 again).
12. EU law on Limit Values does not allow a new breach, nor should there be allowed worsening of air over limits, whether or not the scheme would result in compliance of the Zone being delayed.

13. I referred to the issue arising out of what was said at the Traffic/Transport ISH the day before in relation to the release of queued traffic referred to by TfL (in the Transport Assessment 7.3.66, and referred to in my summary of oral evidence from the Traffic/Transport ISH, paragraph 2). This was that worse congestion at some locations will be expected to mean worse air pollution at those places – but that it needs to be established whether all places so affected are included in TfL's air quality study area and assessments.
14. However I stated that even on what TfL do show, there are important effects.
15. There is one place with an admitted large worsening of air, in relation to Objectives. This is of relevance to question 4.12 on improving air in AQMAs.
16. In relation to places assessed for compliance with EU Limit Values the new 8.33 document shows one place with a 0.3 worsening which takes levels from 39.8 ie below the 40 microgram per cubic meter NO<sub>2</sub> concentration which is the EU annual mean limit value, to 40.1 ie over it (in Table 2.8 on PCM links, scheme reference ID 4818/Defra ID 75427). TfL seems to regard this increase as imperceptible but should regard it as material as it takes a receptor over the limit. Further, there are other places in the table which as a result of the scheme come close to the 40 level eg ID 40084/39035 going to 39.4. And if there were just slightly more traffic and/or more attributable to the scheme the increases and levels with the scheme in place could be easily significantly different.
17. However I pointed out that anyway, as TfL admit in their Rule 17 response, the Client Earth ruling requiring the government to re-do their modelling, and having to produce a more ambitious Air Quality Plan, has an impact on this scheme. They state that they will have to add their local work to Defra re-done PCM background levels. Defra's new levels should include stronger measures and so bring forward compliance, but this will be from a worse starting point as they will have to use more realistic/less optimistic modelling assumptions. Thus the new work could result in higher or lower levels. TfL stated that they had already uplifted their assessment, but it is not clear whether they are saying they have also somehow pre-empted Defra's changed assumptions, ie the levels they would be adding their assessment to.
18. TfL propose to do this work prior to scheme opening (R17 1.4.4 and document 8.33- Table 2.13 on section 5.13 of the NPS) (claiming it is positive they propose flexible tolling/charging so that they could make adjustments if needed), however by then the work will at least have started if not have been completed. Thus what would happen if the new compliance assessment found that the scheme would cause a breach or worsen air where it was already over? It cannot be allowed that the scheme be granted permission in the hope that the new compliance assessment does not result in outcomes which should have required refusal – thus the scheme must be rejected.
19. I later referred to the fact that the WHO has shown that there are health effects at lower levels than current EU limits for NO<sub>2</sub>: “New studies have associated short- and long-term exposure to NO<sub>2</sub> with mortality, hospital admissions, and respiratory symptoms at concentrations at or below the current EU limit values (which are set at the same level as the AQGs).” and then their current AQGs for PM<sub>2.5</sub> air pollution. Also the WHO's recommended levels for PM are twice as stringent as the EU's, and the WHO recommend EU levels should be brought into line with the WHO's. “Recent studies show associations between PM<sub>2.5</sub> and mortality at levels below the current AQGs fixed at 10 µg/m<sup>3</sup> annually ..... The report also recommends further modifications to EU law, as the current limit value for PM<sub>2.5</sub> in the EU's ambient air quality directive is twice as

high as the AQG recommendation.” <http://www.euro.who.int/en/mediacentre/sections/press-releases/2013/01/newly-found-health-effects-of-air-pollution-call-for-stronger-european-union-air-policies>. In fact the WHO say there is no safe limit for PMs: “Small particulate pollution have health impacts even at very low concentrations – indeed no threshold has been identified below which no damage to health is observed” <http://www.who.int/mediacentre/factsheets/fs313/en/>.

20. I referred to how there is in fact no such thing as a clean vehicle due to the non-exhaust PM particulate pollution ie from brake and tyre wear (which, as exhausts are cleaned up, becomes more important and a higher proportion of the problem) <https://data.london.gov.uk/dataset/london-atmospheric-emissions-inventory-2013>

21. I referred to the Kings College EXHALE project on the development of children’s lungs in Hackney and Tower Hamlets schools, and on the Ella Roberta foundation in respect of the child who died of an asthma attack who lived near the South Circular Road.