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Your Ref:

Our Ref: TR010021

Date: 01 February 2017

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Dear Sir/Madam,

**Planning Act 2008 (as amended) and The Infrastructure Planning  
(Examination Procedure) Rules 2010 (as amended) – Rule 9**

**Application by Transport for London (the applicant) for an Order Granting  
Development Consent for the Silvertown Tunnel Project**

**Notification of procedural decisions regarding the applicant's proposed  
changes to the application**

On 12 January 2017 the Applicant submitted an application for 4 non-material changes (NMC) to the proposed Silvertown Tunnel project (the application). At the Compulsory Acquisition Hearing on 20 January 2017, the ExA indicated that, although they accepted that the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 were not engaged as additional land taken within Order limits was only for temporary possession as opposed to Compulsory Acquisition of land or rights, additional consultation should be undertaken.

The ExA confirms their request for additional publicity to be given to NMC5, referring also to the other proposed changes in order to provide a wider context for the changes proposed and consideration of the cumulative consequences of all the changes taken together. This decision has been taken having regard to the Wheatcroft principle<sup>1</sup>, as to whether the development is so changed that to grant it based on the changes proposed would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation.

The ExA has noted from the email of 27 January 2017 from Marisa Teuma and confirmed in more detail in Document 8.63 (REP3-018) that the Applicant will seek to raise the awareness of the local populace and those with an interest in surrounding land and property by a letter drop to all properties within line of sight of the proposed temporary decked car park (NMC5) and adjacent to NMC1 and NMC3. The letter drop will exclude parties that have already been directly consulted or advised as set out in

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<sup>1</sup> Bernard Wheatcroft Ltd vs Secretary of State for the Environment (1982) 43P & CR 233

the Schedules of Engagement of the NMC report. Public notices would also be posted in local newspapers and site notices would be posted on streets and public rights of way adjacent to the proposed NMC sites; and a hard copy of the NMC application documents will be available to view at TfL offices alongside all other DCO documentation.

The ExA notes that government guidance on changing an application post acceptance simply refers to 'appropriate consultation'<sup>2</sup>. In our view, while we accept the logic of the areas for proposed letter drops and in particular that these should be confined to south of the river for the reasons stated in REP3-018, we consider that the proposals set out in that document and summarised above should be modified as follows:

The publication of notices in relevant newspapers should take place for 2 consecutive weeks and should give a minimum of 28 days following the last notification for response. In addition, responses should be required to be sent to the Applicant. Following the expiry of the deadline, a summary of responses to be provided by TfL to the ExA together with copies of individual responses received for Deadline 5.

We note that a further proposed NMC is being put forward by the Applicant relating to an access for Southern Gas Networks/Birch Sites. We would expect that the publicity requirements set out in REP3-018 as amended by this letter to be further adjusted to take account of and refer to this additional proposed NMC.

In our judgement these actions would then fulfil the requirement for 'appropriate consultation'. If you have any queries with regards to the content of this letter, please do not hesitate to contact a member of the Case Team at the address or contact number above.

Yours faithfully,

*Peter Robottom*

**Peter Robottom**  
**Lead Member of the Panel of Examining Inspectors**

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<sup>2</sup> Paragraph 114, Planning Act 2008 Guidance for the examination of applications for development consent