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Subject: NSIP - Proposed Silvertown Tunnel - HSE Deadline 4 Response (SILV-354)
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Attachments: [image002.png](#)
[NSIP - Proposed Silvertown Tunnel - HSE Deadline 4 Response \(Attachment 1\).PDF](#)
[NSIP - Proposed Silvertown Tunnel - Tfl Draft Grampian requirement.PDF](#)
Importance: High

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

Dear Examining Authority,

In response to Deadline 4 (6 March 2017) and the request for electronic submissions as email attachments, HSE as Interested Party (SILV-354) is attaching two documents.

Attachment 1

1. HSE comments on TfL's Written Summary for the Compulsory Acquisition
2. HSE response to Second Written Questions – HSS2.
3. HSE response to Second Written Questions – DC2.9

Attachment 2

Grampian requirement – TfL draft 22 Feb 2017

Kind regards,

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[2]

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1 HSE comments on TfL's Written Summary for the Compulsory Acquisition Hearing 20th January 2017 (REP3-017)

HSE notes an apparent misunderstanding by the applicant of the basis upon which HSE provides its advice. HSE's Written Representation (REP1-080) outlines the risk basis upon which HSE provides its advice on developments around sites which hold hazardous substances consent.

The Examining Authority may find it helpful to refer specifically to paragraphs 3.2 – 3.5 and paragraphs 3.20-3.24 of the Written Representation.

2 Second Written Questions – HSS2.1

Please can the Applicant and HSE provide an update on their discussions regarding the Grampian style requirements proposed by HSE and whether the alternatives proposed by the Applicant in the draft updated SoCG [REP3-013] are acceptable to HSE? See also question DC2.9

In the SoCG (REP3-013) the Applicant has proposed wording for two part Grampian style requirements; requiring parts 'a' or 'b' to be completed before the tunnel is brought into use. On 22nd February 2017, the Applicant suggested revised wording for the two part requirements, but this has not changed HSE's position which is that we do not accept the principle of the two part requirements. HSE confirmed this position in an email to TfL on the 24th February 2017.

As outlined in our Written Representation (REP1-080) and emphasised in our comments on the Applicant's Written Summary for the Compulsory Acquisition Hearing, HSE has already carried out an assessment of the risks to the public associated with the proposed tunnel operating in the vicinity of Brenntag and East Greenwich Gasholder Station. It is on this basis that HSE is providing its advice to the Examining Authority, and consequently to the Secretary of State (SoS). Neither the basis of HSE's advice nor its assessment of the risks to the public has been challenged by the Applicant during the Examination process.

HSE are unsure of the intention of the second part of the Applicant's proposed requirements. If the proposed assessment of the risks is intended to challenge HSE's land use planning advice then HSE will not support it. If that is not the intention, then it is unclear how the assessment would be beneficial to the SoS. However, if it is decided to adopt two part requirements then HSE would not wish to be consulted on any third party assessment and would request that the requirement for such consultation is removed from the wording.

3 Second Written Questions - DC2.9

HSE welcomes the Examining Authority's question relating to the Applicant's assertion that it would be unlikely that the Secretary of State (SoS) would accept Grampian-style requirements to address HSE's concerns.

As outlined in the Statement of Common Ground between HSE and the Applicant (REP3-013), discussions regarding the Grampian-style requirement are ongoing. It was only during January 2017 that HSE became aware of the Applicant's assertion that the SoS would be unlikely to accept Grampian-style requirements to address HSE's concerns, a view which is not shared by HSE.

'COMAH' Concerns

As detailed in HSE's Written Representation (REP1-080) at paragraph 2.7, the Seveso III Directive has been implemented in Great Britain through two separate legislative routes; the Control of Major Accident Hazards (COMAH) Regulations 2015 under health and safety legislation and through land use planning under planning legislation.

A site which holds hazardous substances consent is not necessarily an establishment subject to COMAH Regulations and the two terms are not interchangeable. For the avoidance of doubt, HSE's case is concerned with planning controls arising from hazardous substances consent, not COMAH which implies a concern relating to how the site is being operated.

HSE Grampian Requirement

TfL Draft

22 Feb 2017

East Greenwich Gasholder Site

1. 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:
 - 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
 - b. TfL has submitted to the Secretary of State an assessment of the extent to which opening the authorised development for public use and occupying the tunnel services building would change the extent and severity of existing hazards at the East Greenwich Gasholder Station site with the potential to impact on local populations including fire or explosion following loss of containment of natural gas, 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.

Brenntag Chemicals Site

2. 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:
 - a. 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
 - b. TfL has submitted to the Secretary of State an assessment of the extent to which opening the authorised development for public use and occupying the tunnel services building would change the extent and severity of existing hazards at the Brenntag Inorganic Chemicals Ltd site with the potential to impact on local populations, including loss of containment of hazardous substances 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.