

CORRECTION NOTICE

THE THAMES WATER UTILITIES LIMITED (THAMES TIDEWAY TUNNEL) ORDER 2014 (S.I. 2014/2384)

SCHEDULE 4 TO THE PLANNING ACT 2008 CORRECTION OF ERRORS IN DEVELOPMENT CONSENT DECISIONS 17 March 2015

The Secretaries of State for Environment, Food and Rural Affairs and for Communities and Local Government received a request dated 17 October 2014 from Thames Water Utilities Limited, to make corrections to the The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (“the Order”), under Schedule 4 to the Planning Act 2008.

The Secretaries of State have made the following corrections to the Order:

Generic

Substitution of “environmental statement” for “Environmental Statement” throughout the Order.

Secretaries of States’ Reasons

The substitution ensures consistency and provides clarity for the reader.

Corrections to the Articles

Article 2(1) Interpretation

In the definition of “environmental statement” insert “6.1 and” before “6.2” and for “environment statement” substitute “environmental statement”.

Secretaries of States’ Reasons

The insertion of the document reference is for accuracy as document 6.1 forms part of the environmental statement. The insertion of the corrected text ensures consistency.

Article 10 Street works

In paragraphs (1) and (2) omit the following words: “other than in respect of specified works subject to the LoPS as applied by the highway authority in whose area the undertaker seeks to carry out such works,”.

After paragraph (4) insert the following:

“(4A) The provisions of sections 32 to 39 of the Traffic Management Act 2004 apply to any street works carried out under paragraph (1) or (2) to the extent that those works constitute “specified works” as defined in section 32(3) of that Act and which would notwithstanding the provisions of this article be subject to LoPS as applied by the highway authority in whose area the undertaker seeks to carry out such works.”

Secretaries of States' Reasons

The correction is to improve the drafting, to give effect to the intention of the Examining Authority ("ExA") and the Secretaries of State and for the avoidance of doubt – see paragraphs 20.120 and 20.121 of the ExA's Report.

Article 11 Power to alter layout, etc., of streets

In paragraphs (1) and (2) omit the following words: "other than in respect of specified works subject to the LoPS as applied by the highway authority in whose area the undertaker seeks to carry out such works,".

After paragraph (5) insert the following:

"(5A) The provisions of sections 32 to 39 of the Traffic Management Act 2004 apply to any works carried out under paragraph (1) or (2) to the extent that those works constitute "specified works" as defined in section 32(3) of that Act and which would notwithstanding the provisions of this article be subject to LoPS as applied by the highway authority in whose area the undertaker seeks to carry out such works."

Secretaries of States' Reasons

The correction is to improve the drafting, to give effect to the intention of the "ExA and the Secretaries of State and for the avoidance of doubt – see paragraphs 20.120 and 20.121 of the ExA's Report.

Article 16 Access to works

In paragraph (1) omit the following words: ", other than in respect of specified works subject to the LoPS as applied by the highway authority in whose area the undertaker seeks to carry out such works".

After paragraph (2) insert the following:

"(2A) The provisions of sections 32 to 39 of the Traffic Management Act 2004 apply to any works carried out under paragraph (1) to the extent that those works constitute "specified works" as defined in section 32(3) of that Act and which would notwithstanding the provisions of this article be subject to LoPS as applied by the highway authority in whose area the undertaker seeks to carry out such works."

Secretaries of States' Reasons

The correction is to improve the drafting, to give effect to the intention of the ExA and the Secretaries of State and for the avoidance of doubt – see paragraphs 20.120 and 20.121 of the ExA's Report.

Article 42(5) Statutory undertakers

In paragraph 42(5) substitute reference to "paragraph (1)" with "paragraph (4)".

Secretaries of States' Reasons

The substitution corrects the Order reference.

Article 60 Unilateral undertaking – Project-wide matters

Substitute "unilateral undertaking" for "Unilateral undertaking".

Secretaries of States' Reasons

The substitution ensures consistency and provides clarity for the reader.

Corrections to the Schedules

Schedule 3 Requirements

In the table in paragraph 2, Excavated material and waste, ref PW12, third column,) after "Habitats Regulations Assessment No Significant Effects Report" insert "(document reference 6.3)".

Secretaries of States' Reasons

The insertion of the document reference is for accuracy.

In the table in paragraph 3, Contaminated land, Ref ACTST3, third column, sub-paragraph (1):

- insert "a." before "a preliminary risk assessment";
- insert "b." before "a remediation strategy"; and
- after "a remediation strategy which includes—" insert on a new line "the results of the site investigation".

In the table in paragraph 4, Contaminated land, Ref HAMPS2, third column, sub-paragraph (1) sub-paragraph b., after "a remediation strategy which includes—" insert on a new line "the results of the site investigation".

In the table in paragraph 5, Contaminated land, Ref BAREL3, third column, sub-paragraph (1):

- omit sub-headings i - iv in b; and
- after "a remediation strategy which includes—" insert on a new line "the results of the site investigation".

In the table in paragraph 6, Contaminated land, Ref PUTEF10, third column, sub-paragraph (1):

- insert "a." before "a preliminary risk assessment";
- insert "b." before "a remediation strategy"; and
- after "a remediation strategy which includes—" insert on a new line "the results of the site investigation".

In the table in paragraph 7, Contaminated land, Ref CARRR3, third column, sub-paragraph (1):

- insert "a." before "a preliminary risk assessment";
- insert "b." before "a remediation strategy"; and
- after "a remediation strategy which includes—" insert on a new line "the results of the site investigation".

In the table in paragraph 8, Contaminated land, Ref DRMST3, third column, subparagraph (1):

- insert “a.” before “a preliminary risk assessment”;
- insert “b.” before “a remediation strategy”; and
- after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 9, Contaminated land, Ref KNGGP3, third column, subparagraph (1):

- insert “a.” before “a preliminary risk assessment”;
- insert “b.” before “a remediation strategy”; and
- after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 10, Contaminated land, Ref FALPS2, third column, subparagraph (1):

- insert “a.” before “a preliminary risk assessment”;
- insert “b.” before “a remediation strategy”; and
- after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 11, Contaminated land, Ref CREWD6, third column, subparagraph (1)

- insert “a.” before “a preliminary risk assessment”; and
- insert “b.” before “a remediation strategy”.

In the table in paragraph 13, Contaminated land, Ref KRTST2, third column, subparagraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 14, Contaminated land, Ref HEAPS5, third column, subparagraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 15, Contaminated land, Ref ALBEF11, third column, subparagraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 16, Contaminated land, Ref VCTEF13, third column, subparagraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 17, Contaminated land, Ref BLABF16, third column, subparagraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 18, Contaminated land, Ref SHTPS3, third column, subparagraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 19, Contaminated land, Ref CHAWF6, third column, sub-paragraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 20, Contaminated land, Ref EARPS3, third column, sub-paragraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 21, Contaminated land, Ref DEPCS5, third column, sub-paragraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 22, Contaminated land, Ref GREPS7, third column, sub-paragraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 23, Contaminated land, Ref KEMPF9, third column, sub-paragraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 24, Contaminated land, Ref BEKST3, third column, sub-paragraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 25, Contaminated land, Ref ABMPS3, third column, sub-paragraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

In the table in paragraph 26, Contaminated land, Ref BESTW2, third column, sub-paragraph (1), after “a remediation strategy which includes–” insert on a new line “the results of the site investigation”.

Secretaries of States’ Reasons:

The insertion or deletion of sub-headings is for consistency and to provide clarity for the reader. Insertion of additional text is for consistency.

Schedule 16 Provisions for protection of specified undertakers

In Part 2 (The Port of London Authority) in paragraph 3 amend the definition of “scour and accretion monitoring and mitigation strategy” as follows: after the words “submitted to the Authority” insert the following “in accordance with the principles set out in the four way legal agreement between Thames Water Utilities Limited, the Port of London Authority, the Environment Agency and the Marine Management Organisation dated 3rd March 2014 (as amended 7th August 2014) (APP183)”.

Secretaries of States’ Reasons

The insertion of corrected text ensures consistency with the same definition in the Deemed Marine Licence (Schedule 15 Part 1, paragraph 1).

In Part 4 (Transport for London) Section 1 (*Protection of TFL Railway Companies*) make the following corrections in paragraph 3:

- a) in sub-paragraph (1)
 - for “under the powers” substitute “in the exercise of the powers”;
 - omit “or under”; and
 - for “acquire or enter upon, take or use whether temporarily or permanently or acquire any new rights over” substitute “prevent or hinder pedestrian or vehicular access to any”.
- b) For sub-paragraph (2) substitute the following:

“3(2) The provisions of article 56 (application, disapplication and modification of legislative provisions) and article 57 (amendment of local legislation) of, and Schedule 19 (miscellaneous controls) to, this Order shall apply to land, works, apparatus and equipment to which this Part of this Schedule applies insofar as those provisions would not be inconsistent with the provisions of this Part of Schedule 16.”.
- c) After paragraph 3 insert new paragraph 3A:

“3A(1) The undertaker shall not in the exercise of the powers conferred by or under this Order, without the consent of the protected person, acquire or enter upon, take or use whether temporarily or permanently or acquire any new rights over protected property.

(2) The undertaker shall not exercise the powers under article 22 above or the powers under section 11(3) of the 1965 Act in respect of any protected property, except with the consent of the protected person.”.

Secretaries of States’ Reasons

The insertion of corrected text provides clarity.

In Part 4 (Transport for London) Section 2 (*For the Protection of London River Services Limited*) make the following corrections in paragraph 3:

- a) For sub-paragraph 3(1) substitute the following:

“3(1) The undertaker shall not in the exercise of the powers in this Order, without the consent of the LRSL, prevent or hinder pedestrian or vessel or emergency vehicular access to the piers.”.
- b) For sub-paragraph 3(2) substitute the following:

“3(2) The provisions of article 56 (application, disapplication and modification of legislative provisions) and article 57 (amendment of local legislation) of, and Schedule 19 (miscellaneous controls) to, this Order shall not apply to land, works, apparatus and equipment to which this Part of this Schedule applies insofar as those provisions would be inconsistent with the provisions of this Part of Schedule 16.”.
- c) After paragraph 3 insert new paragraph 3A:

“3A(1) The undertaker shall not in the exercise of the powers conferred by this Order without the consent of LRSL, acquire or enter upon, take or use (whether temporarily or permanently) or acquire any new rights over the piers.

(2) The undertaker shall not exercise the powers under article 22 above, or the powers under section 11(3) of the 1965 Act in respect of the piers, except with the consent of the LRSL.”.

Secretaries of States’ Reasons

The insertion of corrected text provides clarity.

In Part 4 (Transport for London) Section 3 (*Protection for Highways Structures*) make the following corrections in paragraph 3:

- a) For sub-paragraph 3(1) substitute the following:
“3(1) The undertaker shall not in the exercise of the powers conferred by this Order, without the consent of TfL, prevent or hinder pedestrian or vehicular access to any protected property.”.
- b) For sub-paragraph 3(2) substitute the following:
“3(2) The provisions of article 56 (application, disapplication and modification of legislative provisions) and article 57 (amendment of local legislation) of, and Schedule 19 (miscellaneous controls) to, this Order shall not apply to land, works, apparatus and equipment to which this Part of this Schedule applies insofar as those provisions would be inconsistent with the provisions of this Part of Schedule 16.”.
- c) After paragraph 3 insert new paragraph 3A:
“3A(1) The undertaker shall not under the powers conferred by this Order, without the consent of TfL, acquire or enter upon, take or use whether temporarily or permanently or acquire any new rights over protected property.
(2) The undertaker shall not exercise the powers under article 22 above or the powers under section 11(3) of the 1965 Act, in respect of any protected property except with the consent of TfL.”.

Secretaries of States’ Reasons

The insertion of corrected text provides clarity.

In Part 4 (Transport for London) Section 4 (*Protection for Highways and Traffic*) make the following corrections in paragraph 2:

- a) In sub-paragraph 2(1) in the definition of “designated works”, for “Part 5 (for the protection of major highways structures)” substitute “Section 3 of Part 4 (*protection for highways structures*)”.

Secretaries of States’ Reasons:

The insertion corrects the Order reference.

- b) Omit paragraph 2(4).

Secretaries of States’ Reasons:

Omission of text provides clarity for the reader. This refers to a provision not included in the changes made by the Secretaries of State when they made the Order.

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118(4) of the Planning Act 2008, a decision under paragraph 1 of Schedule 4 to correct an error in an Order granting development consent can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day on which the Order making the correction is published. The Thames Water Utilities Limited (Thames Tideway Tunnel) (Correction) Order 2015 (as made) is being published on the Planning Inspectorate website at the following address:
<http://infrastructure.planningportal.gov.uk/projects/london/thames-tideway-tunnel/>.

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Correction Order referred to in this notice is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).