

**The Draft Thames Water Utilities  
Limited (Thames Tideway Tunnel)  
Development Consent Order**  
(Planning Inspectorate Reference: WW010001)

**Code of Construction Practice**

**Joint Borough Written  
Representation**

**November 2013**

## **THAMES TIDEWAY TUNNEL – CODE OF CONSTRUCTION PRACTICE**

### **Response to the Written Questions from the Examination Panel on behalf of the London Boroughs of Tower Hamlets, Wandsworth, Southwark, Westminster, Hammersmith and Fulham, the City of London and Lewisham**

This note is a joint borough Written Representation in response to Q 6.74 Written Questions issued on 26<sup>th</sup> September 2013 by the Examination Panel, albeit individual local authorities may make raise additional comments in respect to the work sites in their area. In part the comments are based on the experience of the affected Borough's experience of dealing with the construction planning, formal consents regime and implementation of the Crossrail project during the past 9 years.

#### Construction Management and Enforcement (Section 2)

During all the period that the Crossrail project was being designed, taken through the parliamentary procedures, contracts being let and construction works commencing the boroughs have been dealing with a single client agency – Crossrail. This has meant that as issues and problems inevitably arose, the boroughs were able to secure redress from a single responsible agency rather than trying to resolve problems with the many different contractors engaged on the project, which would have been time consuming and result in inconsistent outcomes. It has also meant that Crossrail itself has developed considerable body of expertise in managing major construction contracts and thus quickly able to resolve problems as they arise.

In respect to the management of the construction of the Thames Tideway Tunnel it is understood that a yet unknown infrastructure provider(s) (IP) will be the main beneficiary of the order, albeit Thames Water itself may carry out some of the construction work, and associated works on their own adjacent network. Such an IP perhaps for operational, or financial reasons, may not necessarily wish to adhere to the same principles and visions/aspirations which are included in non-statutory documents separate from the Development consent Order (DCO). Clarity and responsibility between Thames Water and the IP is therefore critical for the Councils.

Based on Crossrail experience the IP will commission contracts for the inevitable enabling and utility related works as well several main contracts for construction, usually involving a long list of sub-contractors. The Crossrail Act provided for Parliamentary Undertakings and Assurances, which are signed by the Secretary of State and not only dealt with individual local authority concerns but also dealt with the mitigation of a wide variety of construction impacts. The DCO needs to provide a similar mechanism for ensuring full compliance with all the policies and proposals set out in the supporting documents, including the measures and plans set out in both parts of the Code of Construction Practice (CoCP). Otherwise, the absence at this stage of a known and committed client for the project will make enforcing measures and conditions difficult and gives scope for other unforeseen impacts to arise during the construction phases.

In summary, experience of Crossrail demonstrates the need for an enforcing body to have sufficient skills, experience and powers to ensure that the CoCP is properly enforced and also able to properly manage the work of the Contractors. It is not clear from the DCO or the non statutory documentation as to how this enforcing role will be achieved or by whom

### Construction Planning (Section 2)

It is very clear from Part A of the CoCP that the proposed Construction Environmental Management Plan (CEMP) with its suite of topic specific management plans will be the primary means of demonstrating the impact of construction works on the local community, securing the mitigation of those impacts and enforcing the CoCP. Whilst Thames Water has provided illustrative plans for each worksite showing the construction works for the various phases of works, the preparation of the CEMP will be the sole responsibility of the main contractors and not produced until the main contractors have been appointed.

Experience of Crossrail suggests that a process will provided inadequate opportunities for stakeholders to influence the content of the CEMP and its suite of plans. By the time the Contractor is appointed, there will be pressure to commence construction works and there is likely to be limited time for the local community and other stakeholders to be able to understand the impact of the construction works and put forward proposals to amend the CEMP.

The Crossrail project included a construction planning stage that involved the submission of Schedule 7 planning applications for the proposed Construction Arrangements for each work site. Whilst the matters for approval were excessively restricted, this stage in the process provided an early opportunity for stakeholders to fully understand the impact of the construction works and put forward proposals for mitigation. It is considered a similar process should be incorporated in the DCO, possibly by a way of a requirement, with the IP having the responsibility for the preparation of the necessary documentation and application. As with Crossrail, the appointed contractor may have a different construction methodology, but the principles within the CEMP will have been established and any proposed changes then agreed with the local authority.

### Role of Local Authorities (All functions)

Whilst the implementation of the CoCP will be dealt with by a DCO Requirement, much of the detail is proposed to be a matter for the “Employer” and “Contractor”. Other than in dealing with Section 61 applications, very few matters require the explicit agreement of local authorities as distinct from consultation, albeit that many of the details in the CoCP could have profound impact upon how the construction will impact upon the local community. In this respect the CEMP is crucial in determining how the construction sites are laid out and managed that it is considered the CEMP and its subsidiary plans should all be subject to approval by the Local Planning

Authority. The boroughs also object to the assumptions set out in para 1.1.12 to the decisions as to the meaning of “reasonable and practicable” being made solely by the ‘Employer’ Such decisions should be made by the local authority within the context of the S61 process.

### Communications and Community/ Stakeholder Liaison (Section 3)

The boroughs’ experience of the implementation of the Crossrail project during the past 5 years has demonstrated the importance of ensuring early and effective communications between the client (Thames Water or an alternative IP) the Council, contractors and the local community. Whilst the proposals set out in section 3 of Part A of the CoCP are welcomed in principle, boroughs consider that the approach adopted would place too much responsibility on the contractor(s) rather than the client (Thames Water or the IP). In addition community liaison panels for each site should be set up as soon as practicable after the decision has been made on the DCO. The following amendments to this section of the CoCP are therefore proposed:

- all the obligations set out in section 3.1 should be on the Employer rather than the contractor(s) in order to ensure overall co-ordination and compliance with the requirements of this part of the CoCP, albeit some of the responsibilities may be delegated to the contractor in due course;
- the Employer should also directly employ community relations staff to coordinate the activities of the contractor(s) and the contractor’s community relations staff;
- the CoCP should make it clear that any community relation meetings for each site could be chaired by the relevant local authority if agreed by the local authority and/or requested by the local community; and
- as well as the keeping of a complaints register, some form of independent adjudicator should be monitored to ensure that the complaints are dealt with expeditiously and fully.

### General Site Operation (Section 4)

Important matters not mentioned in the CEMP or in section 4 of the CoCP that need to be included are:

- depending on site specific considerations, the ability to restrict construction traffic during school opening and closing times;
- hoarding design and layout taking into account the impact upon amenity, the need to minimise disruption to businesses and incorporation of signage to relate to the site specific needs e.g. pedestrian movements, business continuity signage; and

- all enabling works and utilities works outside the main construction sites should be managed in accordance with the CoCP.

#### Public access, the Highway and River Transport (Section 5)

In addition to the proposals for lorry management and control set out in the CoCP, lorry holding areas should be approved by local authorities and standard and visible lorry signage provided in order to monitor lorry movements and ensure construction vehicles remain on designated lorry routes. Boroughs should be fully involved in the preparation of the River Transport Management Plan in order to ensuring the protection of residents and businesses residents from barge loading and unloading

#### Noise and Vibration (Section 6)

It is considered that the approach adopted by Thames Water in determining eligibility for noise insulation and temporary housing is fundamentally flawed and does not represent current best practice as adopted by Crossrail. The flaws are demonstrated in the preamble to Q11.34 in the Examination Panels list of Written Questions which shows that even when properties are predicted to experience significant increases in noise, they would not be eligible for noise insulation or temporary rehousing.

The policy should be based on a change in ambient noise level and two alternative methods are detailed within BS5228 at E3.2 (ABC method) and E3.3. Thames Water state that they are following the ABC method, but on review it is found that they are using a derivative of the E3.2 BS5228 methodology, which will afford a lower level of protection to those affected by the construction noise impacts. BS5228 E3.3 is more akin to the Crossrail methodology which is our preferred method, this takes into account the pre-construction ambient plus construction noise. This policy ensures that where the noise levels generated by construction activities are deemed to be significant, that is where the total noise (pre-construction ambient plus construction noise) exceeds the pre-construction ambient noise by 5 dB or more, noise insulation or temporary rehousing should be made available to any local residents or sensitive receptors such as any school affected.

It is noted that Thames Water will be responsible for the management and implementation of the noise and temporary rehousing policy. In order to comply with the requirements of the preferred methodology described above, baseline noise locations and measurements will need to be carried out in all properties (including non residential buildings and open space) potentially affected by construction noise. The baseline noise level measurement points and levels determine should always be agreed in conjunction with the relevant local authority. Any noise modelling undertaken of the construction impacts should be made available for assessment and scrutiny by the local authority

Experience from Crossrail has demonstrated that the timescales for the offer and installation of noise insulation has been considerably longer than ever predicted,

particular where additional statutory or landlord consents have been required. As a result works, have often commenced before noise installation has been completed leading to disturbance to residents and or the need for temporary rehousing as would be required by the policy proposed by Thames. For this reason baseline noise levels and construction noise modelling need to be undertaken at the earliest possible time by Thames Water well in advance of contracts for construction, including enabling works, being awarded.

#### Water Resources (Section 8)

Whilst the majority of this section of the CoCP is a matter for the Environment Agency reference is made to the likely need for dewatering which, based on Crossrail experience, can be an intrusive process and cause disturbance along the route of the tunnel. As necessary, the dewatering process should subject to the controls set out in the CoCP and prior discussion and consultation take place with the relevant local authorities prior to commencement.

#### Ecology and Historic Environment (Sections 11 and 12)

It is noted that as part of the CEMP management plans for protecting the assets and securing mitigation will be prepared by the contractor for both these matters, albeit without any involvement on the part of local authorities. Both issues will be of significant interest and concerns to the local authority, particularly in respect to open space and therefore any such management plans should be approved by the local authority. Depending on the site specific issues, it should also be recognised that Thames or the IP, and not just the contractor, may need to be involved in the preparation of these plans in order to secure effective protection and mitigation.