

## COL12

### Responses to First Written Questions

Q1.1 Can the statutory consultees on matters relevant to air quality and odour detail the extent of agreements reached noting any areas where the base data is disputed and/or considered insufficient or where the authority disagrees with the Environmental Statement

The City Corporation accepts the information provided in the Environmental Statement and Air Management Plan with respect to the impact of construction traffic and odour control. We remain concerned about odour being a potential problem once the project is completed but understand that the use of passive carbon filters for the projected times when the air pressure is positive from the ventilation shaft provide the best available technology for dealing with this. We would caveat that the filters will require regular changing so as to retain their effectiveness although we understand this would be potentially actionable using Environmental Protection Act if the tunnel owner was not carrying this out. We would expect that to be a matter of discussion rather than necessitating legal action.

Q2.1 (a) Has the Applicant's Habitats Regulations Assessment No Significant Effects Report provided sufficient information to form the basis of any necessary Appropriate Assessment of the proposals?

Since there are no Natura 2000 sites in the City this Habitats Regulation Assessment is not relevant to the City as local planning authority. However, the Assessment identifies that Epping Forest is a Special Area of Conservation (SAC) which is protected by the Habitats Directive. The assessment considers the impact of the Thames Tideway Tunnel project on air quality from increased traffic but concludes that the air quality impacts on local roads are below the Department of Transport thresholds and therefore are not significant. The Assessment's conclusions are being reviewed by officers at Epping Forest.

Q 5.23 To what extent would the proposed design create architectural rhythm and visual interest?

The design has been the subject of discussions between Thames Water and the City Corporation. The design of the structure has been amended in response to those discussions to conform to its setting, provide interest, enhance the riverside and relate to the historic nature of the location. Notwithstanding this the final outcome would be dependent on careful consideration at the detailed stage (see response to Q5.25).

Q 5.24 To what extent would the foreshore structure be well integrated with its surroundings?

See response to Q5.23 and Q5.25.

The representation from the City of London expresses concern that there may be insufficient scope to secure design changes to the design of the foreshore structure at Blackfriars Embankment Foreshore.

Q5.25. Can CoL provide details of its reasons for its concerns in relation to this matter and what this relates to in terms of drafting in the Development Consent Order?

*The proposed foreshore structure would be located in a visually prominent and sensitive location, within the setting of numerous designated and non-designated heritage assets. CoL accepts the engineering case for the overall form of the build-out structure and is*

*positive about the general direction that the treatment of the levels, materials palette etc. is currently taking. However, the working up of the details of these proposals including height and appearance of vents, treatment of the existing listed and non-designated sections of the river wall, the kiosk structures, landscaping and planting, lighting, etc. all require further discussion and agreement.*

*In drafting the DCO, CoL requires an assurance that negotiations and discussions regarding these issues would continue until a solution that is considered satisfactory to CoL is reached and that there will be sufficient scope when discharging approval of details requirements for the CoL to achieve the quality of finish, materials and design appropriate to its important location, historic context and to ensure the safety and security of the public. TWUL have confirmed that detailed design elements will be subject to further Design Council CABE Review to which the City Corporation will be invited to contribute. In the meantime we seek continued discussion with the Applicant on design matters.*

Q5.26. Does CoL have any proposals for mitigating the impact of the proposed works? How would such proposals be secured within the DCO?

*It is expected that the impact of the proposed build-out works into the river could be mitigated by the creation of a new area of public realm and extension of the riverside walkway on its upper surface level. For this to be acceptable, the public realm should be of exemplary design that reflects its historic context.*

*Such measures of mitigation could be secured by ensuring that TW provide an assurance that the issues (referred to in Q5.25) that determine the detailed appearance of the publicly accessible and visually prominent parts of the proposals are to be agreed with CoL. The EXA should clarify the obligation to secure this agreement.*

Q6.1 Is there consensus between all parties that the definition and description as currently drafted encompasses all necessary matters and works in a form that allows all parties to understand the fundamental parameters, structure, approach and limitations?

*(b) If no set out what is required and why.*

*No, the CoL's concerns about the DCO definitions and suggested amendments are addressed in the CoL's written representations, in particular at paragraphs 1-20.*

Q6.2 Should reference also be made to the application being made in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended)?

Yes, for accuracy.

Q6.3 The first time the Planning Act 2008 is referenced should it include a footnote identifying amendments?

Yes, for accuracy.

Q6.4 Should reference be made to the Panel and the ExA only referenced and used in the context of describing a function or decision or recommendation by the ExA, and if so, should this apply consistently throughout the DCO drafting?

Yes, for accuracy.

Q6.5 Does reference need to be made expressly to: the Secretaries of State, having considered the report and recommendations of the Panel, have decided the application and

have determined to make an Order giving effect to the proposals comprised in the applications with modifications?

Yes, for accuracy.

Q6.9 In the light of the extent of the powers that apply to the maintenance including outside the Order limits:

- a) How is such a wide definition justified and why is it necessary?
- b) How are matters that could amount to development in their own right justified as or differentiated from matters to be considered as maintenance?
- c) How are works to be undertaken in accordance with this article and definition to be constrained to that which has been assessed within the scope of the Environmental Impact Assessment?

The City Corporation has raised concerns about these issues in its written representations, in particular in paragraphs 10-46 and seeks to limit the power of "maintenance" so that it does not authorise works amounting to "development" within the meaning of the Planning Act 2008, the environmental effects of which have not been assessed in the Environmental Statement.

Q6.14 No definition of special administrative order is given, should one be provided?

Yes, it would be helpful.

Q6.15 Should articles 8 and 9 be expressly subject to consent in all instances?

Yes, the Secretary of State's consent to all transfers should be required. As stated in our written representations the City Corporation considers that article 9(2) should be deleted with the effect that a transfer can only be made to an IP. We also consider that only one further transfer to an IP should be permitted. See in particular paragraphs 51-68 of our written representations.

Q6.16 If any benefit is retained after transfer should liability still equally and severally apply?

Yes, the DCO should provide for liabilities to be joint and several as between TWUL and any transferee as set out in our written representations in particular at paragraphs 51-68.

Q6.17 In relation to the powers set out in article 10(1)(a)-(i) should Schedule 4 be limited to the Order limits rather than the full street names as given?

No, streets affected by the project should be identified in Schedule 4 as set out in our written representations in particular at paragraphs 69-79.

Q6.18 Article 10(2) seeks to allow notice for work on any street outside Schedule 4 and the Order limits. Is this reasonable and necessary? If so why and how?

The consent of the street authority should be obtained for street works outside Schedule 4 and the Order limits as set out in particular at paragraphs 67-79 of our written representations.

Q6.19 Why is there a need to include powers within the Order seeking powers in respect of activities and/or land outside the Order limits? This occurs repeatedly throughout the Order and should be responded to in relation to each instance.

We query inclusion of powers in respect of activities and/or land outside the Order limits and believe the undertaker should justify why such powers are necessary and proportionate in the context of the proposed development in each instance. See in particular paragraphs 69-79, 81-84, 114, 126, 140, 147 and 198 of our written representations.

Q6.20 Article 15(2) does not provide for vehicular and delivery access except by foot for businesses or mobility access, should it?

Yes, the temporary stopping-up powers are not confined to pedestrian footpaths or walkways and therefore should provide for reasonable access for the class of traffic affected by the temporary stopping up.

Q6.21 Could the traffic authority advise if deemed consent set out at article 18(8) is reasonable or necessary? Does this provide adequate safeguards?

The deemed consent provision should be deleted as it is unreasonable and unnecessary and does not provide adequate safeguards. The traffic authority is best placed to make the decisions in subsection (2)(a) –(e) particularly given its network management duty.

Q6.23 Do the powers sought in Article 20 amount to compulsory acquisition?

Yes, see our written representations in particular at paragraphs 121 -130.

Q6.24 Should Article 21 relate to land and buildings or just access to land?

We seek the deletion of Article 21. See paragraphs 131-144 of our written representations.

Q6.25 Should the notice referred to in Article 23 also be published in the London Gazette?

No, notice in a local newspaper and a site notice is sufficient and accords with normal statutory requirements.

Q6.26 Is it reasonable that those responding should incur such expense without recompense?

It would seem reasonable for the reasonable expenses of responding to the notice to be recompensed.

Q6.27 Should this article not deal with the likely possibility that the human remains are in consecrated ground with all the ensuing procedures which arise?

Yes, no justification has been provided for subsection (14) which states that the Burial Act 1857 requiring the Secretary of State's consent if a faculty is not obtained does not apply.

Q6.28 How does Article 25 deal with any liability or consents particularly in relation to any protected tree or shrub lying outside the Order limits unless it expressly excludes these works in favour of article 26?

This Article should expressly exclude those works in favour of Article 26 to avoid ambiguity. See paragraph 151 of our written representations.

Q6.29 Should Article 26 also make provision for trees and shrubs protected by virtue of a conservation area designation?

See paragraph 152 of our written representations. We seek an amendment to clarify that Article 25 does not override the protection afforded by section 211 of the Town and Country Planning Act 1990.

Q6.31 If permanent works are undertaken in accordance with Article 34(1)(a) and these are not restored in accordance with article 34(4)(b) and (c) is this temporary or does this require permanent rights to maintain these works?

See in particular paragraphs 182 -196 of our written representations in respect of Article 34.

Q6.32 If article 34(8) is brought into effect is this still temporary use of land for carrying out the authorised project?

See in particular paragraphs 182 - 196 of our written representations.

Q6.34 (Art 35) The exercise of the power should be limited to land within the Order limits. See in particular paragraphs 197 – 206 of our written representations.

Q6.40 Should this article also allow for payment of the reasonable cost of having to respond and action notice and counter notice?

This would seem reasonable.

Q6.51 Could each relevant planning authority provide any commentary on the terms of Article 51 (Safeguarding)?

Article 51 is acceptable in principle subject to the points made in response to Q6.52 and Q6.53. Additionally there may be enhancement works etc.in the area not requiring planning permission that are not covered by article 51.

Q6.52 As drafted there is no automatic release if the undertaker does not respond to consultation. Should there be?

Yes, there should be automatic release if the undertaker does not respond in a reasonable time period because otherwise development could be held up.

Q6.53 Should article 51(5)(b) be 21 days from issue of notice rather than receipt?

Yes, to give certainty it should be 21 days from issue of notice.

Q 6.54 (Article 53) Is deemed consent (discharge of requirements) justified and reasonable? If so how and why?

No, it should be replaced with deemed refusal in the same way that non-determination of planning applications is a deemed refusal. See in particular paragraphs 250-265 of our written representations.

Q6.55 Does it provide adequate safeguarding?

No, the deemed consent provision is not justified or reasonable and should be deleted to ensure the appropriate mitigation is secured. See in particular paragraphs 250-265 of our written representations.

Q6.56 (Article 57 Certification of plans) Should this be a prescribed list or are all parties satisfied that there will be clear understanding of what is to be covered in particular in relation to article 57(1)(f)?

For certainty a prescribed list would be preferable.

Q 6.57 Should direct reference be made to Schedule 2 Plans Part 1,2,3 and 4?

This is not necessary as the definitions of Works Plans, Land Plans. Access Plans and Approved Plans directly refer to the relevant Parts of Schedule 2.

Q 6.58 Does Article 58 need to refer to all Secretaries of State engaged in relation to s127 powers sought?

Yes, for clarity.

Q6.59 Is the President of the Institution of Civil Engineers the appropriate person to make an appointment of a single arbitrator in all circumstances that could result in the need for arbitration? Each response should be explained and supported fully explaining in each instance arbitration may arise how and why this is appropriate.

The appropriate person to appoint an arbitrator depends on the issue in dispute.

Q6.60 Are the identified bodies for discharge appropriate in all circumstances and does this provide an appropriate control and management framework.

The bodies referred to for discharge of requirements in respect of requirements specific to the Blackfriars foreshore site would seem to be appropriate. In terms of the control and management framework we seek additionally measures including highways liaison meetings to be held with the City Corporation, prior notifications and discussions to take place before applications are made for discharge of requirements for fixings on listed structures, liaison on the detailed design as it develops and an approval/consent process for works to pipe subways and in relation to street works as referred to in our written representations some of which may need to be set out in agreements or in amendments to the DCO.

Q6.65 Details of all protective provisions are required. If these are not agreed between the parties then submissions should be made individually by each party requiring protective provisions setting out full reasoning for the need.

We seek protective provisions in Schedule 16 as detailed in our written representations. TWUL have agreed the pipe subways provisions.

Q6.66 Schedule 17(1)(3) sets out deemed consent. How and why is this reasonable or justified?

It should provide for deemed refusal. This is dealt with in our written representations, in particular at paragraphs 250-265 and our suggested amendments to Schedule 17.

Q6.67 Could any of the discharging authorities respond on how reasonable the timescales are?

Please see in particular paragraphs 250-265 of our written representations and our suggested amendments to Schedule 17.

Q6.69 Could any discharging authority comment on the adequacy of the charging schedule for discharge?

Please see our written representations, in particular at paragraphs 250-265 and our suggested amendments to Schedule 17.

Q6.72 In relation to disapplication of general legislation in Part 1 and local legislation in Part of Schedule 19 what effect would these powers have on other duties such as the powers to maintain flood defences?

The ability of local authorities to discharge their statutory functions would be affected, including their ability to carry out their network management duties under the Traffic Management Act 2004 and their functions as lead local flood authorities under the Flood and Water Management Act 2010. See in particular paragraphs 266-301 of our written representations and our Local Impact Report.

Q6.74 Can the relevant local authorities and other statutory consultees comment on the CoCP detailing any areas of disagreement or omission.

With respect to the COCP Part A we expect our local authority colleagues in Tower Hamlets and the LB Southwark who are leading on response to that issue to co-ordinate responses from all affected local authorities. The City of London has no problem with the COCP although we would highlight 3 issues:-

COCP A:- this suggests a liaison protocol however for the COCP B for Blackfriars Foreshore there is a note to the effect that the contractor would be expected to apply in advance and agree demolition and construction method statements. It should be noted that these will expect liaison arrangements to also comply with the City's Code of Deconstruction and Construction Practice edition 7.

- a) In COCP B most matters will be dealt with through the same demolition and construction method statements. On working hours it is noted in COCP B that the City normally applies quiet hours to these activities. The statement that 'standard' hours (from COCP A and B) will apply is not agreed. We would expect to take a pragmatic approach and not apply these unless essential for the protection of existing businesses but that is not yet agreed as the methodology can only be agreed with the contractor once appointed.
- b) The City agrees with the amended Environmental Statement issued in September and there will need to be detailed discussion before agreement of the working hours and methodologies employed in order to safeguard the impacts of noise from operations in proximity to the City of London Boys' School.

Q6.80 To what extent would the approach of referring to design principles as a whole in Requirement PW7 provide an effective basis for ensuring that the design intentions set out in the application documents would be carried through into the detailed designs?

We would prefer to keep the wording of PW7 as it is to allow flexibility in ensuring that the detailed design is of an appropriate quality in relation to its surroundings and the heritage context.

Q6.81 What would be the advantages and disadvantages of an approach whereby those design principles which are considered to be important and sufficiently precise would be incorporated into the DCO as requirements?

There would be advantages in giving certainty and setting out the parameters for the infrastructure provider but this may reduce the flexibility in respect of changes or improvements to the design.

Q6.84 Would the proposed site features plan (3 of 3) at Blackfriars Embankment Foreshore be better described as indicative rather than illustrative?

Following a meeting on 1/7/13 this level of detail was agreed between the CoL and TW and that the plans could be treated as indicative pending resolution of some outstanding matters raised at that meeting, and (ii) the level of detail reflects the consensus between the parties as to use, character and layout of the permanent works.

Q 6.86 As regards the consents that are being dealt with through the draft Order the Applicant should demonstrate by confirmation from the consenting body that there are no overriding impediments to the securing in principle of such consents within the terms of the draft Order.

We cannot confirm at this stage that there will not be any impediments to securing the consents.

Q8.12 Can the applicant review its assessment of the extent of the listed structure (river wall), the extent of the works for which listed building consent would normally be required and the consequential impact assessment? [The Heritage Statement states that the 1960s section of river wall is not considered to be listed.]

It is agreed that the 1960's section is not considered to be listed unless it is shown that it incorporated earlier historic fabric and embankment wall.

Q 11.2 Can the relevant local authorities:

- a) Detail the extent of agreements reached, noting any areas where the base data is disputed and/or considered insufficient or where the authority disagrees with the conclusions reached in the ES?
- b) Advise whether they consider that the dBLAeq, 15 min ambient noise levels given in the ES, fully represent the ambient noise level in the areas affected by the works; and
- c) Provide full commentary on whether the information provided by the Applicant can be used as the base level for assessment of the impact of noise on residential and other receptors.

The City accepts the provision of 15 minute dBLAeq as representing a base level for ambient noise. It would also like to see maximum noise levels recorded during these periods so that these can be used to assess any works that are carried on outside of 'standard hours'. Given modern equipment we would expect this data to be readily available from those undertaking the monitoring for the project.

Q12.5 Can all parties advise of any locations which they feel the ExA should visit during its accompanied site visit to aid understanding of the application and potential impacts.

As per our email to the Planning Inspectorate dated 23/9/13 we think it would assist understanding for the following sites to be visited:

- a) Pipe subways
- b) Basement rifle range
- c) Tower Bridge to view the operational aspects.

Q13.1 Does the policy context for the proposal need to be modified or supplemented to take account of all relevant and up to date policy documentation at the European, UK, English, County, District and local levels?

The policy context should be up to date to take account of all relevant policies. Relevant national and local policies are listed in the Local Impact Report and have been provided to the Applicant for inclusion in the SOCG when it is ready to be submitted.

Q16.5 Could each of the local highway authorities individually or collectively detail the extent of agreements reached, noting particularly any areas where the base data is disputed and/or considered insufficient or where the authority disagrees with the conclusions reached in the ES/TA.

As yet there have been few meetings with the City Corporation's highways officers to discuss highways impacts. TWUL have focused on the permanent part of the scheme, not the temporary impacts of construction and therefore further discussions with the Applicant and highway liaison meetings will be needed to address the issues set out in our Local Impact Report and written representations.