

Thames Tideway Tunnel
Thames Water Utilities Limited



Application for Development Consent

Application Reference Number: WWO10001

Examining Authority's Second Written Round of Questions and Requests for Information Response from Thames Water

Transport Strategy

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**Thames
Tideway Tunnel**



Creating a cleaner, healthier River Thames



Technical Advice Note

Draft Transport Strategy Summary

1 Introduction

- 1.1.1 The transport strategy for the Thames Tideway Tunnel (the ‘project’) was included within the application for development consent (the application) and summarises the overall approach to the transport of material for the project (refer to the [Transport Strategy](#) [Doc ref: 7.09]). This note presents a revised approach to the implementation of the transport strategy, and this information will be used as the basis to draft a new document which will supersede the *Transport Strategy*.
- 1.1.2 The objective of the transport strategy for the project is to minimise the potential impacts associated with the transportation of construction materials and excavated material on communities and the environment (where practicable and cost-effective), and to follow guidance in the [National Policy Statement for Waste Water](#) (NPS).
- 1.1.3 Since the submission of the application, Thames Water has been developing the transport strategy. This has been informed by stakeholder consultation with the Greater London Authority (GLA), Transport for London (TfL), Port of London Authority (PLA) and the affected local authorities.
- 1.1.4 The transport strategy document, which will supersede the *Transport Strategy*, will now consist of:
 - a. the transport strategy commitments
 - b. the transport strategy process.
- 1.1.5 Compliance with the new transport strategy document will be secured through a Requirement of the development consent order (DCO) which will bind Thames Water, the employer and the contractors to their commitments and the process to secure it.

2 The transport strategy commitments

- 2.1.1 The *Transport Strategy* set out commitments to transport specified excavated and construction materials by river, and to use reasonable endeavours to achieve a target of at least 90 per cent.
- 2.1.2 Following discussions with stakeholders, the commitments have been updated to include the transport of segments to Chambers Wharf, and the avoidance of loading and movement of vessels from 10pm to 8am at Chambers Wharf, as shown in Table 2.1.
- 2.1.3 Contractors will be required to transport all of the specified materials by river unless a derogation for an alternative method has been approved. Any movement of a specified material not in accordance with the transport strategy without an approved derogation in place, as expressed in the contract with each contractor, will result in the transport costs being disallowed.
- 2.1.4 Contractual arrangements and incentives for contractors to transport additional materials by river, and to develop strong community relationships with adjacent communities, thereby avoiding unnecessary movement of materials not in accordance with the transport strategy, will be included within the construction contracts.

Table 2.1 Transport strategy commitments

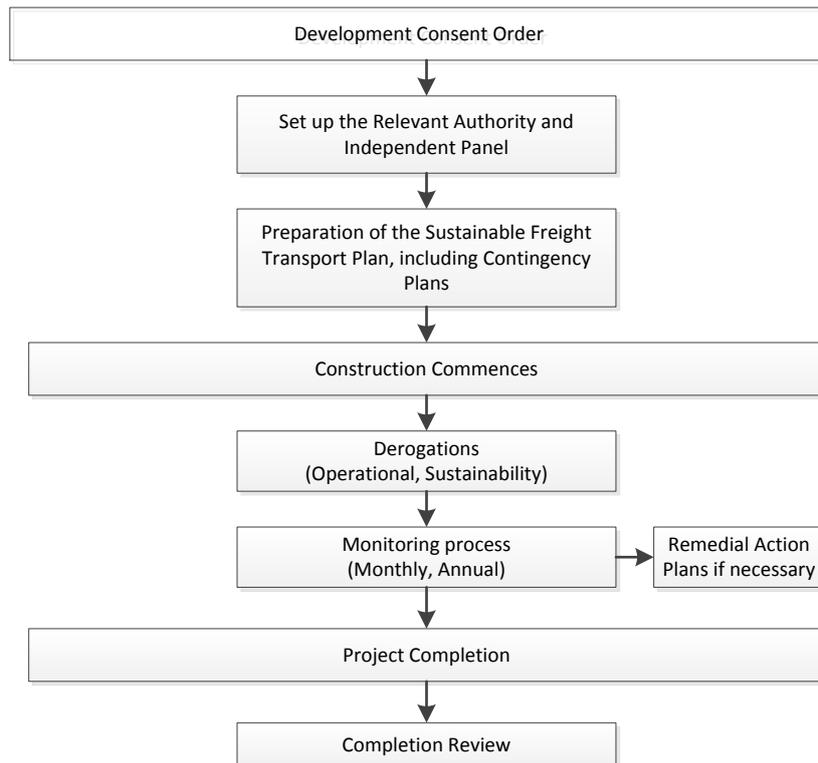
1.0	To move the following materials by river, subject only to approved derogations and an objective of achieving at least 90 per cent of these materials by river
1.1	Main tunnel excavated material from the main tunnel drive sites (Carnwath Road Riverside, Kirtling Street, and Chambers Wharf)
1.2	Shaft excavated material at ten sites in the foreshore or with direct river access (Putney Embankment Foreshore, Carnwath Road Riverside, Cremorne Wharf Depot, Chelsea Embankment Foreshore, Heathwall Pumping Station, Albert Embankment Foreshore, Victoria Embankment Foreshore, Blackfriars Bridge Foreshore, Chambers Wharf and King Edward Memorial Park Foreshore)
1.3(a)	Import of temporary cofferdam fill material at all foreshore sites
1.3(b)	Export of temporary cofferdam fill material at all foreshore sites
1.3(c)	Import of permanent cofferdam fill material at all foreshore sites
1.4	Excavated material from short connection tunnels, interception chambers and associated structures at eight sites (Putney Embankment Foreshore, Cremorne Wharf Depot, Chelsea Embankment Foreshore, Albert Embankment Foreshore, Victoria Embankment Foreshore, Blackfriars Bridge Foreshore, Chambers Wharf and King Edward Memorial Park Foreshore)
1.5	Import of sand and aggregates for secondary lining works for the main tunnel sites at Carnwath Road Riverside, Kirtling Street and Chambers Wharf
1.6	Import of main tunnel lining segments at Chambers Wharf
2.0	Construction contracts will also require:
2.1	The main tunnel secondary concrete lining to be batched on site
2.2	Ready-mix suppliers for all sites to source sand and aggregates delivery by river or rail
2.3	No loading and movement of vessels from 10pm to 8pm at Chambers Wharf, subject to approved derogations

3 Overview of the transport strategy process

- 3.1.1 The transport strategy securing mechanism has been developed to provide a transparent process through which these commitments can be secured, and through which compliance with this commitment can be judged.
- 3.1.2 Figure 3.1 illustrates the structure of the process proposed. It consists of the following six elements:
- a. **Appointment of the Relevant Authority and Independent Panel:** The Relevant Authority will be responsible for approving, monitoring and reviewing the delivery of the transport strategy. The Independent Panel will act as arbitrator in the event of dispute between the parties.
 - b. **Preparation and approval of the sustainable freight transport plan:** This plan will set out the detailed proposals for delivering the transport strategy on a site-by-site basis, and for the project as a whole. This will include detailed contingency plans.
 - c. **Operational and sustainability derogations:** A process by which approval is given for temporary use of an alternative transport method for materials contained within the transport strategy commitments, for either operational or sustainability purposes. Derogations must be necessary and reasonable.

- d. **Monitoring, review and remedial action:** Review of monthly/annual monitoring reports by the Relevant Authority to assess need and reasonableness of approved derogations, progress towards meeting the transport strategy targets, and plans for future operations/derogations.
- e. **Remedial action plans:** A plan to be prepared in the event of there being evidence of derogations being unnecessary or unreasonable, or of transport strategy targets not being met. Breach of the remedial action plan would be considered a breach of the requirement.
- f. **Completion review:** A review of performance against the transport strategy targets by the Independent Panel.

Figure 3.1 Overview of the Transport Strategy Securing Mechanism



4 Appointment of the Relevant Authority and Independent Panel

4.1 Relevant Authority

4.1.1 The Relevant Authority would be set up prior to construction so that it can be involved in the development of the sustainable freight transport plans. The role of the Relevant Authority would be to:

- a. engage in the development of the sustainable freight transport plan, including the contingency plans
- b. make decisions where required during the preparation of the sustainable freight transport plan, including contingency plans
- c. monitoring and review of the delivery of the transport strategy, including attendance at monthly monitoring meetings
- d. make decisions about derogations where required
- e. establish the requirement for remedial action plans and monitor their implementation
- f. maintain a public record of decisions and a list of relevant stakeholders.

- 4.1.2 The Relevant Authority will consist of TfL, PLA and the local authorities directly affected by riverside sites. Decision making for the sustainable freight transport plan and any derogations by the Relevant Authority will remain with the local authority in which the site for approval is located. However, the Relevant Authority must consider:
- a. any cumulative effects of proposals, taking particular guidance from TfL and the PLA from an area/project-wide perspective, to ensure a strategic view of the derogations
 - b. any adjacent local authority, through which the lorry from the site to the Transport for London Road Network or Strategic Road Network is routed, or which is directly affected (see Table 4.1), to ensure that decisions take account of those local authorities directly affected by the site operation and provide for any approvals that might be required, should these sit outside the DCO.
- 4.1.3 The employer will fund a full-time post to take responsibility for the coordination of the Relevant Authority. This post will be appointed through the GLA or TfL. This role will be required to bring together the necessary consultees and decision makers, dependent on the issue and site in question, and ensure that decisions are taken within defined timescales.
- 4.1.4 The employer will also provide a post for the coordination of the management of the transport strategy. The employer coordinator will liaise with the project manager and will liaise with the relevant authority coordinator to ensure smooth running of the transport operations and the derogations process. The contractor's marine and traffic logistics managers liaise with the employer coordinator.
- 4.1.5 The terms of reference for the Relevant Authority will be developed further in consultation with the local authorities, GLA, TfL and PLA to illustrate its primary decision-making requirements. This will be prepared prior to the sustainable freight transport plans.

4.2 Independent Panel

- 4.2.1 The Independent Panel would be set up prior to construction and the development of the sustainable freight transport plans, and after the formation of the Relevant Authority.
- 4.2.2 The role of the Independent Panel would be to:
- a. review the sustainable freight transport plan if referred by the Relevant Authority or the employer
 - b. review standard operational derogations if referred by the Relevant Authority or the employer, and if not covered by a contingency plan
 - c. review monthly monitoring reports/annual reviews if referred by the Relevant Authority or the employer
 - d. review remedial action plans if referred by the Relevant Authority or employer
 - e. review the completion review.
- 4.2.3 The Independent Panel will be funded by the Employer and will consist of five appointed members, consisting of a chair and four ordinary members: three who would lead liaison for each geographical area of the project and one who would lead project-wide matters.
- 4.2.4 Appointment of the Chair of the Independent Panel would be by the President of the Institution of Civil Engineers (ICE) or other agreed professional body. Appointment of four ordinary members would be by the Chair of the Independent Panel, in consultation with the Relevant Authority. Decisions would be by majority vote and the Chair would have the casting vote.
- 4.2.5 The terms of reference for the Independent Panel will be developed in consultation with the local authorities, GLA, TfL and PLA further to illustrate its primary decision-making requirements. This will be prepared prior to the sustainable freight transport plan.

Table 4.1 Relevant authority – suggested local authorities

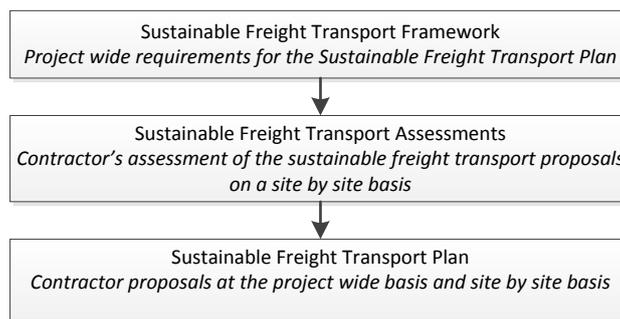
River sites	Relevant authority local authorities	Local authority potentially affected by construction vehicle movements (consultees)	Drive site?
Putney Embankment Foreshore	LB Wandsworth	LB Wandsworth	No
Carnwath Road Riverside	LB Hammersmith and Fulham	LB Hammersmith and Fulham, LB Wandsworth	Yes
Cremorne Wharf Depot	RB Kensington and Chelsea	LB Hammersmith and Fulham, RB Kensington and Chelsea, LB Wandsworth	No
Chelsea Embankment Foreshore	RB Kensington and Chelsea	RB Kensington and Chelsea, City of Westminster, LB Wandsworth	No
Kirtling Street	LB Wandsworth	LB Wandsworth, LB Lambeth,	Yes
Heathwall Pumping Station	LB Wandsworth	LB Wandsworth, LB Lambeth,	No
Albert Embankment Foreshore	LB Lambeth	LB Lambeth, LB Wandsworth	No
Victoria Embankment Foreshore	City of Westminster	City of Westminster, City of London	No
Blackfriars Bridge Foreshore	City of London	City of Westminster, City of London, LB Southwark	No
Chambers Wharf	LB Southwark	LB Southwark, LB Lewisham	Yes
King Edward Memorial Park Foreshore	LB Tower Hamlets	LB Tower Hamlets	No

5 Sustainable freight transport plans

5.1.1 The sustainable freight transport plan will be prepared prior to the start of construction. It will be prepared in three stages, as follows and shown in Figure 5.1:

- a. Sustainable freight transport framework (SFTF) – prepared by the employer in consultation with the Relevant Authority prior to start of construction. It would provide the framework within which the sustainable freight transport assessment for each contract area would be prepared by the contractors. This would include project-wide issues, and guidance for the preparation of contingency plans that would need to be taken into account in the preparation of transport proposals.
- b. Sustainable freight transport assessment (SFTA) – prepared by the Contractors in line with the sustainable freight transport framework and submitted to the employer. These would set out contractor's transport proposals for meeting or exceeding transport strategy commitments, taking account of the SFTF, and be prepared on a contract area basis, ie, East, Central and West. The SFTA would include proposals for all sites to ensure that consideration is given to supply chain, contingency planning and other operational issues for the project as a whole.
- c. Sustainable freight transport plan (SFTP) – one plan prepared by the Contractors in consultation with the Relevant Authority. It will include coordinated proposals at the project-wide level to show how the transport strategy commitments are to be met or exceeded, taking into consideration the SFTA prepared by each of the Contractors. This document will provide the basis for the implementation of the project, and meeting or exceeding transport strategy targets.

Figure 5.1 Sustainable freight transport plans



- 5.1.2 The SFTP will be submitted to the Relevant Authority for approval. It is proposed that there would be a predetermined timescale for the approval of the SFTP, which would need to be adhered to by all parties. The decision could be referred to the Independent Panel by either the employer or Relevant Authority in the event of dispute. A review workshop would be available in the event of deliverability issues being raised by the employer or a member of the Relevant Authority. It is anticipated that there would be an eight-week period for the Relevant Authority to reach a decision, and a further four-week period for the Independent Panel, if required.
- 5.1.3 The SFTP would refer to the contingency plans for each site. These would set out how operational derogation events can reasonably be addressed through the use of mitigation measures so as to maintain river operations, where possible, or otherwise minimise the impact of additional lorry movements on the road network. Table 5.1 sets out suggested content for each stage.

Table 5.1 Sustainable freight transport plan

Project-wide issues to be included within SFTF
<ul style="list-style-type: none"> • Estimated construction and excavated material quantities • Transport strategy commitments, opportunities and incentives • Management arrangements for the transport strategy • Operational requirements for road and river transport based on construction method and programme • Logistics management arrangements • Stakeholder engagement arrangements • Operational standards and best practice • Proposed transshipment sites • Proposed approach to consolidation • Proposed approach to key supply chain issues, such as manufacturing sites for segments • Proposed approach to holding areas • Proposed approach to operational and sustainability derogations • Proposed approach to contingency plans • Risk register • Monitoring requirements for the foreshore/riverside sites.

Site-by-site issues to be considered in the SFTA
<ul style="list-style-type: none"> • Transport strategy commitments and opportunities • Site management arrangements • Stakeholder engagement arrangements • Transport proposals • Site access and design • Lorry management arrangements, including holding areas • Risk register • Contingency plans • Monitoring arrangements
Principal issues for the SFTP
<ul style="list-style-type: none"> • Project-wide considerations for the transport strategy • Site-by-site proposals, including contingency plans

5.1.4 Contingency plans will be required at the project-wide and site-by-site basis, and will contain the information included in Table 5.2.

Table 5.2 Contingency plans

Contingency plans
<ul style="list-style-type: none"> • Key stakeholders • Risk register • List of foreseeable derogation events • Potential mitigation to reduce the likelihood or severity of the derogation • Potential mitigation for possible environmental impacts, eg, transport, noise, monitoring • Residual effects, including lorry movement and environmental effects • Programme, phasing and review requirements • Highway network conditions and proposals • Review of any additional approvals required, eg, highways, environmental health • Notification process • Request process • Decision notice

6 Derogations

6.1.1 The following process for notifying, requesting and approving derogations will be embedded in the project's normal contract administration to make sure that it is central to the management of the project for both the employer and the contractor.

6.2 Operational derogations

6.2.1 The need for operational derogations will arise as a result of river operational or project related events within the operational characteristics anticipated in the transport strategy and contingency plans, which either:

- a. lead to the river being wholly or partially out of use, or
- b. which otherwise affect the contractor's ability to use river transport for some or all of the transport strategy commitments.

6.2.2 Derogations for events that may result in the need to utilise night-time loading at Chambers Wharf will work in the same manner as for the other transport strategy commitments.

- 6.2.3 Operational derogations will be considered against an assessment of need and of reasonableness. For instance:
- a. **Need:** That the operational derogation is necessary, taking into account any reasonable mitigation to offset the requirement for additional lorry movements
 - b. **Reasonableness:** That the operational derogation is reasonable, taking into account whether or not the contractor has taken appropriate steps to avoid the need for the derogation arising.
- 6.2.4 Steps to offset the need for operational derogations might include the provision of forward planning for events, appropriate training, implementation of appropriate maintenance regimes for site equipment, adherence to appropriate operation or health and safety procedures, adoption of optimum site management processes to minimise the number and frequency of derogation events arising.
- 6.2.5 Where possible, contingency plans will govern the response to operational derogations on a site-by-site basis. In this event, the contractor will notify the Employer, and also the stakeholders, of the derogation event and make a request to the employer for the derogation, and the employer will be responsible for making a decision. Notification to the stakeholders permits feedback on any local conditions for the contractor to take into account when preparing the derogation request. Details of each notification, request and decision notice will be subject to monitoring by the Relevant Authority. Further details of this process are set out below.
- 6.2.6 However, there may be occasions where an operational derogation event is not covered sufficiently by a contingency plan. In this event, following notification of the Employer and stakeholders by the contractor and a request for the derogation being approved by the employer, the request will be submitted to the Relevant Authority for approval. Decisions may be referred to the Independent Panel in the event of agreement not being reached. Further details of this process are set out below.
- 6.2.7 In the event of a decision not being capable of being made as a result of lack of time, provision will be made for the employer to make the decision, and for these decisions to be the subject of monitoring by the Relevant Authority.
- 6.2.8 The cumulative volume of material arising from approved operational derogations will be monitored, and taken into account in the assessment of whether or not the project has met the transport strategy commitments.

6.3 Sustainability derogations

- 6.3.1 In the event of a contractor identifying an alternative, local, beneficial reuse for excavated material which would lead to overall environmental benefits, when compared to the transport strategy commitment, a process for requesting a sustainability derogation will be provided.
- 6.3.2 Approval of a sustainability derogation would be subject to two tests, as follows:
- a. The derogation must provide for beneficial reuse of the excavated material and must lead to a reduction of CO₂ emissions or lorry miles, and
 - b. The derogation must not lead to significantly increased environmental effects when compared to the *Environmental Assessment* submitted with the DCO.
- 6.3.3 The excavated material arising from Chambers Wharf is highly unlikely to have an alternative local, beneficial reuse because of the nature of the material. Additional lorry movements might also result in additional environmental impacts on local roads. As a result, it is proposed that Chambers Wharf is excluded from this arrangement.
- 6.3.4 The process for sustainability derogations would follow that for unforeseen operational derogations (refer to Section 6.8). The opportunity for a sustainability derogation would be notified as a derogation event to stakeholders by the contractor. The contractor would make a request to the employer and, if approved, the request would be made to the Relevant Authority for a decision to be made. Decisions may be referred to the Independent Panel in the event of agreement not being reached. Further details of this process are set out below.

6.3.5 The potential for sustainability derogations may be identified within contingency plans; however, no provision is made for a sustainability derogation to be approved solely by the employer.

6.3.6 The volume of material which is the subject of approved sustainability derogations would be excluded from the transport strategy commitments because it will only have taken place if there are enhanced sustainability outcomes arising from the agreed alternative.

6.4 Derogations processes

6.4.1 The derogation process commences once the contractor becomes aware of a derogation event. This may include:

- a. a river operational or project related event which either leads to the river being wholly or partially out of use, or which otherwise affects the contractor's ability to use river transport for some or all of the transport strategy commitments, or
- b. an opportunity for local, alternative beneficial reuse of excavated material, other than from Chambers Wharf.

6.4.2 It is proposed that the implementation of operation and sustainability derogations is formed around two processes:

- a. Notification process
- b. Approvals process.

6.4.3 It is essential that employer, contractor and Relevant Authority act reasonably and seek to implement the process, with a view to achieving smooth running of the project and the derogations procedure.

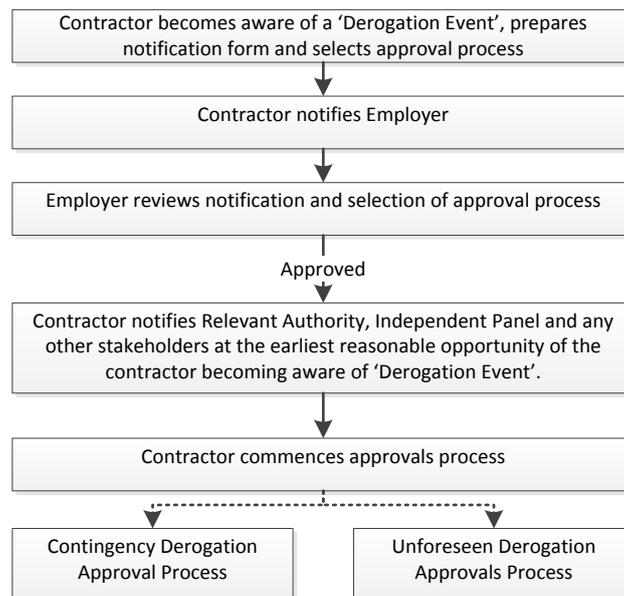
6.5 Derogation event notification process

6.5.1 The notification process is shown in Figure 6.1. This requires notification by the contractor to the employer, including the identification of the proposed approvals process for each derogation. The employer will approve notifications before these are passed to the Relevant Authority, Independent Panel and any other agreed stakeholders.

6.5.2 The notification period will be completed as soon as reasonably practical after the contractor becomes aware of the event. Notifications would be made using the notification form which is included in Table A.1 in Appendix A.

6.5.3 The notification process provides the opportunity for the employer to ensure that only robust derogations are notified, and for the Relevant Authority to provide information about external conditions that might have a bearing on the preparation of the derogation request.

Figure 6.1 Notification process



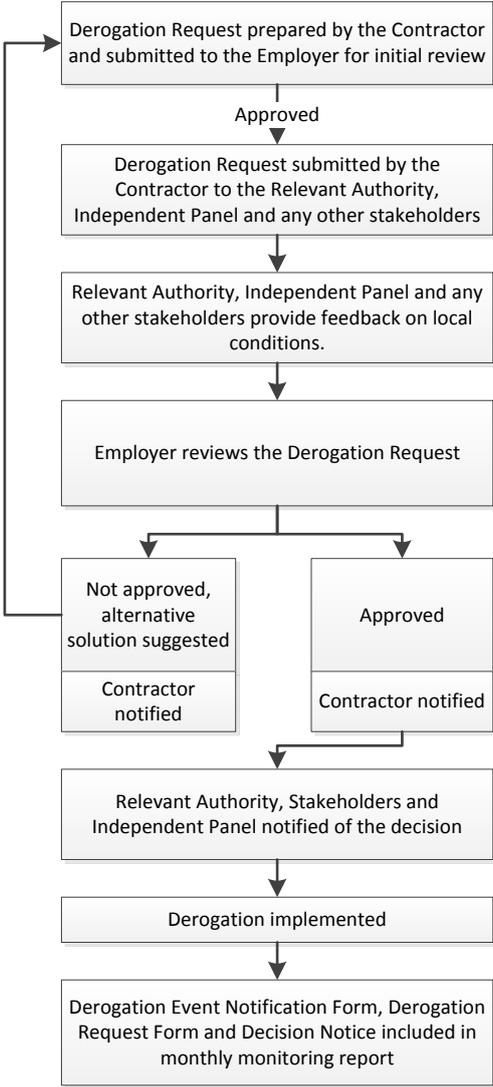
6.6 Approvals process

6.6.1 There are two possible approvals processes for proposed derogations. These are shown in Figure 6.2 (contingency derogation approvals process), and Figure 6.3 (unforeseen derogation approvals process). These have been developed to take account of whether or not the derogation request is covered by a contingency plan. Appendix B contains examples of operational derogations and how they might be dealt with through these processes.

6.7 Contingency derogation approvals process

- 6.7.1 The contingency derogation approvals process covers the approval of an operational derogation request covered by, or not significantly different from, an approved contingency plan (approved by the Relevant Authority as part of the sustainable freight transport plan).
- 6.7.2 Having received agreement to the approval process through the notification process, the contractor will issue a derogation request to the employer for review, then the contractor will also issue this to the Relevant Authority, other stakeholders and the Independent Panel. At this stage, the Relevant Authority and stakeholders have the opportunity to feed back any information on local conditions which was not foreseen in the contingency plan.
- 6.7.3 The employer will review and approve requests through this process before it is implemented, so as to provide assurance that the derogation is implemented in line with the approved contingency plan.
- 6.7.4 The Relevant Authority, other stakeholders and the Independent Panel would be notified of when the new operational derogation request has been approved by the employer.
- 6.7.5 The derogation event notification form (see Table A1, Appendix A), the derogation request form (see Table A2, Appendix A) and the decision notice (see Table A3, Appendix A) would be included in monthly monitoring to enable review by the Relevant Authority.
- 6.7.6 This process is summarised in Figure 6.2.

Figure 6.2 Contingency derogation approval process

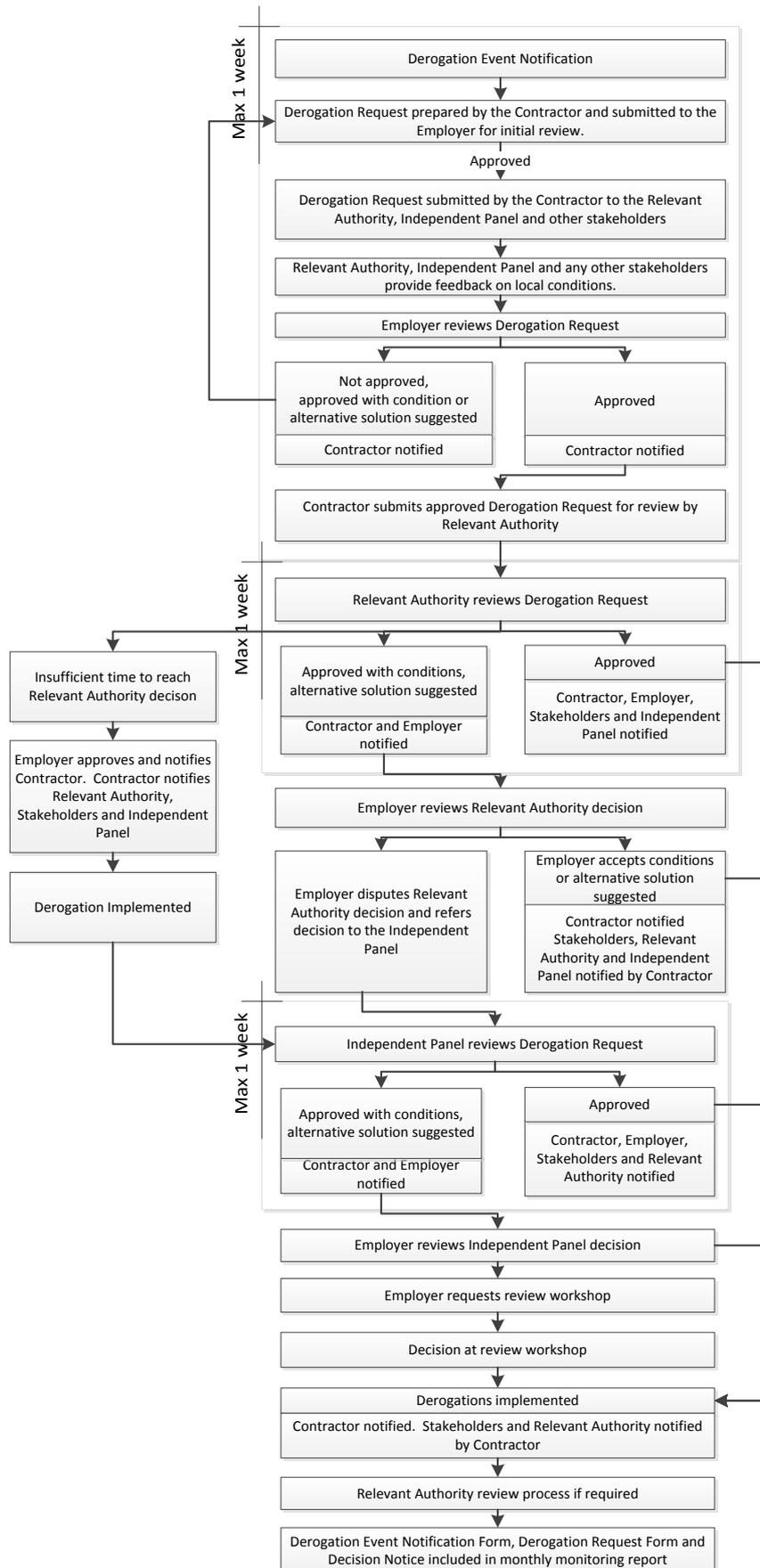


6.8 Unforeseen derogations approvals process

- 6.8.1 The majority of derogation events would be covered in the contingency plans but, in the unlikely situation where an event is not covered by a contingency plan, or if it is significantly different to an event covered by a contingency plan, an alternative process will be required. This process will also apply for sustainability derogations.
- 6.8.2 Having received agreement to the approval process, the contractor will issue a derogation request to the employer for review, then issue the derogation request to the Relevant Authority, other stakeholders and the Independent Panel. At this stage, the Relevant Authority and stakeholders have the opportunity to feed back any information on local conditions which was not foreseen in the contingency plan.
- 6.8.3 The employer will review and approve derogation requests before passing to the Relevant Authority, who will be responsible for making a decision.
- 6.8.4 Decisions may be referred to the Independent Panel in the event of agreement not being reached. The employer may request a review workshop as a method of final arbitration, but only in the event of specified deliverability issues associated with the decision of the Independent Panel.

- 6.8.5 It is likely that a full approval process may require a period of up to 30 days, depending on complexity, and whether or not all the stages are required. However, it is equally possible that a decision might be capable of being made more quickly.
- 6.8.6 Therefore, the notification form will identify the necessary decision-making period available to meet the programme for the derogation requested, and a suggested programme for decision making. The following will apply:
- a. If the decision-making period is at least 30 days, following acceptance by the Employer, the Relevant Authority will make the decision.
 - b. If the decision-making period is less than 30 days, the process of consultation, engagement and approval through the decision-making process will be followed. However, there will be a provision for approval by the employer in the following circumstances:
 - i If the decision-making period expires without a decision being made or agreement being reached,
 - ii so long as the employer has met its programme commitments, and
 - iii has included a review process within the derogation decision notice to allow the Independent Panel to review the operation of the derogation and to require reasonable changes as necessary.
- If the employer approves in these circumstances, the employer will immediately refer the derogation to the Independent Panel to be reviewed.
- 6.8.7 The derogation event notification form (see Table A.1, Appendix A), the derogation request form (see Table A.2, Appendix A) and the decision notice (see Table A.3, Appendix A) would be included in monthly monitoring to enable review by the Relevant Authority.
- 6.8.8 The process is summarised in Figure 6.3.

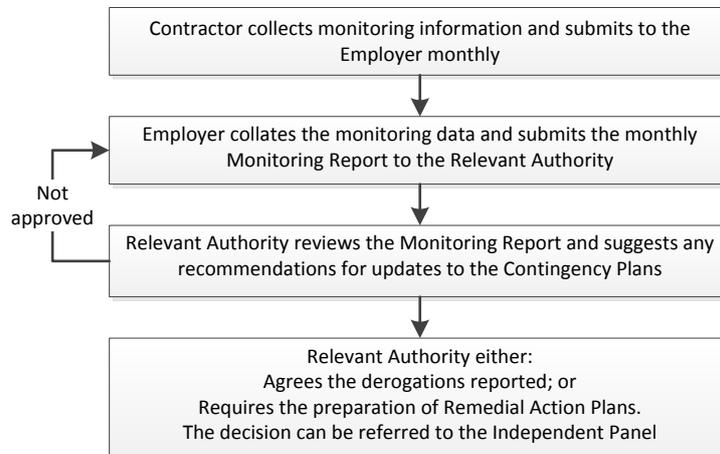
Figure 6.3 Unforeseen derogation approvals process



7 Monitoring, review and remedial action

7.1.1 Implementation of the transport strategy will be subject to regular monitoring and review by the Relevant Authority, as illustrated in Figure 7.1.

Figure 7.1 Monitoring and review



7.2 Monthly monitoring reports

7.2.1 The contractor will be responsible for collecting monitoring data. Monthly monitoring reports will be prepared by the contractor and submitted to the employer. The employer will collate the information across the project and submit the monitoring report to the Relevant Authority.

7.2.2 The monthly monitoring reports will include the following:

- a. Cumulative tonnage of materials transported by river and by road for all sites
- b. The number of lorry movements by road for all sites
- c. All derogation notification forms submitted in the prior month
- d. All derogation request forms submitted in the prior month
- e. All decision notices issued in the prior month
- f. Forecasts for river movement for the transport strategy commitments
- g. Estimated performance against the transport strategy commitments
- h. Data relating to the safety of river and road operations, including any incidents
- i. Records of stakeholder engagement.

7.3 Monitoring meetings

7.3.1 Monthly monitoring meetings will be held to provide an opportunity for the Relevant Authority to review progress towards achievement of the transport strategy commitments, and review or approve derogations.

7.3.2 Monitoring meetings will be attended by the Relevant Authority, the employer and the contractor. The Relevant Authority will review the monthly monitoring report and:

- a. carry out a retrospective review of the need and reasonableness of operational derogations
- b. draw out lessons learned and make recommendations for revisions to contingency plans
- c. undertake a review of upcoming derogations and forecast performance against the transport strategy commitments
- d. review and approve outstanding operational or sustainability derogations

- e. in the event of concern about meeting the transport strategy commitments, or about the need or reasonableness of approved derogations, request a remedial action plan.

7.4 Remedial action plans

- 7.4.1 In the event of the Relevant Authority considering that there is either:
- a. a trend of derogations where there is evidence that approvals are being granted unnecessarily or unreasonably, or
 - b. a trend suggesting that there is a risk of the transport strategy commitments not¹ being met or exceeded,

the Relevant Authority may require the employer to prepare a remedial action plan. The employer may refer this decision to the Independent Panel. The remedial action plan will be enforceable through the Requirement.

- 7.4.2 Remedial action plans will be prepared by the contractor and approved by the employer prior to submitting to the Relevant Authority for approval. The employer may refer the decision to the Independent Panel² in the event of dispute.
- 7.4.3 Remedial action plans will contain specific measures to address the shortcomings identified by the Relevant Authority, such as:
- a. measures to address failure to implement appropriate procedures for training, health and safety, maintenance and site management, in order to reduce the frequency of operational derogations
 - b. measures to improve the consultation and decision-making processes of the contractor or employer.

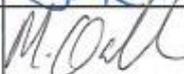
7.5 Annual monitoring reports

- 7.5.1 Every year, an annual monitoring report will be issued. It will be prepared in the same way and contain the same information as the monthly monitoring report, but will also include a review of all contingency plans to take into account lessons learned and known events that may have an impact on the ability to make use of the river.

7.6 Completion reviews

- 7.6.1 The completion report will be prepared by the employer, in consultation with the Relevant Authority, and reviewed by the Independent Panel. It will assess project performance against the transport strategy commitments and consider lessons learned for future projects.

8 Approvals

Position	Name	Signature	Date
Consultant	Keith Mitchell		13/12/13
Delivery Manager – East	Jackie Roe		13.12.13
Construction Delivery Manager	Malcolm Orford		13/12/13

¹ Updated from version issued to TfL, PLA, GLA and relevant Local Authorities (AA) to correct error in text (inclusion of the word ‘not’).

² Updated from version issued to TfL, PLA, GLA and relevant Local Authorities (AA) to correct error in text (changed from ‘Relevant Authority’ to ‘Independent Panel’).

Appendix A

Table A.1 Derogation event notification form

#	Question	Response	
1.	Describe the derogation event	[description of event in as much detail as possible]	
2.	Please insert the date/time of the derogation event	[date/ time]	
3.	Is the derogation event covered by a contingency plan? ¹	Yes	[select appropriate answer]
		No	
4.	Please insert the date and time of the derogation event notification	Employer derogation notification	[insert date/time]
		Stakeholder derogation notification	[insert date/time]
5.	What is the period between the derogation notification to the employer and the derogation event?	Less than 30 days	[select appropriate answer]
		More than 30 days	
6.	What are the likely effects of the derogation event on the execution of the project?	[please include a high-level description, covering the effects on construction, operation, health and safety, and the environment]	
7.	What is the initial assessment of required response to the derogation request?	Mitigation required	[please describe the likely mitigation required]
		Derogation required	[please state whether derogations are required after mitigation, and provide the likely derogation required]
8.	What is the initial assessment of residual effects on local roads (taking into account any mitigation proposed)?	[please describe]	
9.	Select derogations approval process	Contingency derogation approvals process	[please select appropriate process, and follow selected process following submission of derogation event notification]
		Unforeseen derogation approvals process ²	
10.	List of stakeholders relevant to derogation event	[please provide list]	
11.	Please set out suggested timescales for approval	[please provide suggested timescales for Employer, Relevant Authority, and Independent Panel approval processes]	
12.	Estimated date for submission of new derogation request	[date]	

¹ Derogation event covered by contingency plan (within the SFTP), or not significantly different to an event within the contingency plan.

² This approvals process includes sustainability derogations.

Table A.2 New derogation request form

#	Question	Response
1.	Describe the derogation event	[please include a description of the event or refer to contingency plan reference where appropriate. If event is related to a sustainability derogation, please include justification]
2.	Describe the likely effects of the derogation event*	[describe the effects, covering construction, operation, health and safety, and the environment]
3.	Describe the proposed mitigation measures*	[please describe the mitigation required and how it will reduce the impact of, or remove the need for, the derogation event]
4.	If event relates to operational derogation, is derogation still required? ¹	Yes
		No
5.	Proposed derogation requirements*	[please provide a detailed breakdown of the derogation, including total tonnage for sustainability derogations]
6.	Proposed duration of derogation?	[insert date from to date to]
7.	Are any approvals required?	[please state any approvals required in addition to those included in the derogations process]
8.	Management requirements of derogation proposed	[please provide a breakdown of how the derogation will be managed]
9.	Relevant Authority phasing and review process for proposed derogation	[please propose timescales and details of the review process to be undertaken by the Relevant Authority]
10.	Longer term considerations of derogations and derogations proposed.	[please summarise any longer term implications of the event or derogations proposed]
11.	List of stakeholders to be notified of derogation	[only complete if this differs from the list provided in the derogation event notification form]
12.	Please set out required timescales for approval	[please provide required timescales for Employer, Relevant Authority, and Independent Panel approval processes]
13.	Status of derogation request (only complete sections where applicable)	Issued to Employer
		Issued to Relevant Authority
		Issued to Independent Panel

¹ Responses not required if derogation event is included in the contingency plan.

Table A.3 Decision notice

#	Question	Response	
1.	Decision notice submitted by:	[note name of person who completed the form and role, eg, Employer, Relevant Authority, Independent Panel]	
2.	Is the requested derogation necessary?	Yes	[please provide details]
		No	[please provide details]
		If no, specify alternative mitigation proposed	[please provide details of alternative mitigation proposed]
3.	Is the requested derogation reasonable?	Yes	[please provide details]
		No	[please provide details]
		If no, what measures should the employer/contractor be taking to avoid future similar recurrences?	[please provide details of proposed measures]
4.	If a review process is proposed, is this approved?	Yes	[please provide details]
		No	[please provide details]
		If no, what review process should the employer/contractor adhere to?	[please provide details of suggested review process]
5.	Derogation approved	Yes	[select appropriate answer]
		No	

Note: If the Relevant Authority/Independent Panel considers that there is evidence of a systematic failure to prove reasonableness, or if there is evidence that approved derogations may result in less than 90 per cent of category A materials being moved by river, the Independent Panel may require the employer to prepare a remedial action plan. Compliance with the remedial action plan is enforceable by the development consent order Requirement.

Table A.4 Relevant Authority review

#	Question	Response
1.	Review submitted by:	[note name of person who completed the form and role, eg, Employer, Relevant Authority, Independent Panel]
2.	Review date:	[please provide date of review]
3.	Are there any issues regarding the approved derogation?	[please provide details of any issues regarding the derogation]
4.	Are any further mitigation measures suggested for consideration by the contractor?	[please provide details of any measures suggested]

Appendix B

B.1 Examples of operational derogations

B.1.1 This section sets out four examples of events/occurrences that may lead to derogations.

B.1.2 The four examples identified are:

- a. routine maintenance on the river
- b. industrial action
- c. Thames Barrier closure
- d. bridge strike.

B.1.3 Please note that these examples are not exhaustive and the timescales are not fixed and will be dependent on the urgency of the derogation, but have been prepared to demonstrate how the transport strategy process would work in these hypothetical circumstances. It should also be noted that in each of these cases, it is assumed that the paperwork is complete with all appropriate information provided., that all mitigation measures have been exhausted by the contractor and that the derogation is necessary, such that the Employer is able to approve the requests. If any of these circumstances were not true then the Employer would reject the requests appropriately.

Routine maintenance on the river

B.1.4 This example relates to routine maintenance on the river that has been identified as being necessary by PLA eight weeks prior to the event occurring. The following provides an example of the key steps in the process:

- a. **The event:** The contractor is informed by the PLA of the planned maintenance at 12pm, exactly eight weeks (or 56 days) prior to the event taking place. The PLA confirms that the specified maintenance would obstruct the navigational channel. As part of the notification, it is anticipated that the PLA would also confirm how long the navigational channel would be blocked for, and any alternative arrangements.
- b. **Contingency plans:** For this example, it is assumed that this event is included in the contingency plan. The mitigation measures within the contingency plan may reduce or even negate the need for material to be transported by an alternative method.
- c. **Notification process:** As this maintenance event may result in a derogation, at 10am the following day, the contractor issues the notification form to the employer. This states that the contingency derogation approvals process should be followed. The employer carries out a quick review and, by 4pm, the form is approved and the contractor releases to the stakeholders by 6pm. Note stakeholders have the opportunity to send through any details of local conditions, eg, road closures, to inform the development of the derogation request.
- d. **Contingency derogation approvals process:** The contractor prepares the new derogation request form within three days of the notification and issues to the employer at 11am on that day. This request takes into consideration any mitigation measures that reduce the need for a derogation.

The employer carries out a quick review and the form is approved, ready for release to stakeholders, at 1pm. The contractor issues the form to stakeholders at 2pm.

In parallel, the employer reviews the form in more detail, together with any information provided by stakeholders and, by 3pm, three days later, the derogation is approved and a derogation notice is completed. The contractor issues the form to stakeholders for information by 5pm.

Following the decision notice, the contractor will continue to review the event and mitigation measures to review whether the derogation still needs to be utilised. The Relevant Authority reviews the need and reasonableness of the approved derogation at

the monthly monitoring meeting, and comments on matters that may affect the implementation of the derogation.

- e. **Derogation implemented:** The derogation is implemented in accordance with the decision. Any review process with the Relevant Authority set out in the forms would be adhered to. The outcomes of this process would be included in the Relevant Authority review form.

Industrial action

B.1.5 This example relates to industrial action related to the river transport industry which has been identified 12 weeks prior to the event occurring. The following provides an example of the steps:

- a. **The event:** At 12pm, the contractor is made aware of industrial action which is planned to take place in 12 weeks; time (or 84 days). This would affect the river operations as part of the project.
- b. **Contingency plans:** While the potential for an event such as this can be foreseen, the exact details of this event are not sufficiently covered by the contingency plan.
- c. **Notification process:** As the event may result in a derogation, by 12pm the following day, the contractor has issued the notification form to the employer. This states that the unforeseen derogation approvals process should be followed. The employer carries out a quick review of the form and, by 3pm, it is approved and the contractor releases it to the stakeholders by 5pm. Note stakeholders have the opportunity to send through any details of local conditions, eg, road closures, to inform the development of the derogation request. This also means that the relevant parties can be contacted in preparation to review the derogation request.
- d. **Unforeseen derogation approvals process:** The contractor prepares the new derogation request form within three days of the notification, and issues to the employer at 10am. The employer carries out a quick review and the form is approved, ready for release to stakeholders at 3pm. The contractor issues the form to stakeholders at 5pm.

In parallel, the employer reviews the form in more detail and, by 5pm, four days later, the derogation is approved and a derogation notice is completed.

The employer issues the form to the Relevant Authority for review and approval. The Relevant Authority has up to five days to review and complete the decision notice. After the five days has elapsed, the employer reviews the decision notice and either accepts the decision, and the derogation (including any changes) is approved for implementation, or rejects the decision and refers it to the Independent Panel.

Assuming there is a disagreement with the decision, the employer refers it to the Independent Panel. The panel then has up to five days to review the decision and issue a decision notice. The employer requests a review meeting due to deliverability concerns and this is held three days after the Independent Panel review. A way forward is agreed and a final decision notice is issued.

Following the decision notice, the contractor will continue to review the event and mitigation measures to determine whether the derogation still needs to be utilised. The Relevant Authority reviews the derogation at the monthly monitoring meeting.

- e. **Derogation implemented:** The contractor implements the derogation in accordance with the final decision notice. Any review process with the Relevant Authority set out in the forms would be adhered to. The outcomes of this process would be included in the Relevant Authority review form.

Thames Barrier closure

B.1.6 This example relates to closure of the Thames Barrier, of which the contractor has been made aware by the PLA of 36 hours' notice prior to the closure. The following provides an example of the steps:

- a. **The event:** The contractor is informed that the Thames Barrier will close at 7am, exactly 36 hours prior to the event taking place. The duration of the closure will be confirmed as the weather system develops, but the barrier would be raised at low tide.
- b. **Contingency plans:** This event is included in the contingency plan, and the mitigation measures proposed may reduce or even negate the need for material to be transported by an alternative method.
- c. **Notification process:** As the planned event may result in a derogation, by 8am the same day, the contractor has issued the notification form to the employer. This states that the contingency derogation approvals process should be followed. The employer carries out a quick review and, by 8:30am, the form is approved and the contractor releases to the stakeholders by 9am. Note stakeholders have the opportunity to send through any details of local conditions, eg, road closures, to inform the development of the derogation request.
- d. **Contingency derogation approvals process:** The contractor prepares the new derogation request form within four hours of the notification and issues to the employer at 1pm. The employer carries out a quick review and the form is approved, ready for release to stakeholders at 2pm. The contractor issues the form immediately.

In parallel, the employer reviews the form in more detail, together with any information provided by stakeholders and, by 10am the next day, the derogation is approved and a derogation notice is completed. The contractor issues the form to stakeholders for information by 12pm.

Following the decision notice, the contractor will continue to review the event and mitigation measures to determine whether the derogation still needs to be utilised.

- e. **Derogation implemented:** The derogation is implemented in accordance with the decision. Any review process with the Relevant Authority set out in the forms would be adhered to. The outcomes of this process would be included in the Relevant Authority review form. The Relevant Authority reviews the need and reasonableness of the approved derogation at the monthly monitoring meeting, and comments on matters that may affect the implementation of the derogation.

Bridge strike

- B.1.7 This example relates to an arch strike at Wandsworth Bridge by an external party, preventing barges being able to move past the bridge. This is only known immediately after the occurrence has taken place.
- B.1.8 The following provides an example of the steps:
 - a. **The event:** Within 30 minutes of the bridge strike taking place (6am), external to the project, the contractor would be assumed to be notified by the PLA, the contractor becomes aware that this will prevent river operations for specified sites.
 - b. **Contingency plans:** While the event is covered in a contingency plan, the nature of this specific event differs from that reported in the contingency plan.
 - c. **Notification process:** As the event may result in a derogation, by 7am the same day, the contractor has issued the notification form to the employer. This states that the unforeseen derogation approvals process should be followed. The employer carries out a quick review of the form, it is approved immediately by the employer and released to the stakeholders. Note stakeholders have the opportunity to send through any details of local conditions, eg, road closures, to inform the development of the derogation request. At this stage, defined timescales for review should be set out.
 - d. **Unforeseen derogation approvals process:** The contractor prepares the new derogation request form by 8am this same morning and issues to the employer, who carries out a quick review and immediately approves release of the form to stakeholders. The contractor issues the form to stakeholders at 8:30am. This form sets out that road transport will be required by 3pm the same day.

In parallel, the employer reviews the form in more detail and, by 9:30am, the derogation is approved and a derogation notice is completed.

The employer issues the form to the relevant authority for review and approval. The timescales for approval have been agreed (before 12pm the same day) to enable the derogation to take place by 3pm.

If the decision by the relevant authority is not made within the timescales, or if there is insufficient time to resolve any issues, the employer retains the right to approve the derogation. In this case, the Independent Panel can be called upon for a retrospective review.

Decision notices are issued to stakeholders within 30 minutes of each decision being made. Following the decision notice, the contractor will continue to review the event and mitigation measures to determine whether the derogation still needs to be utilised.

- e. **Derogation implemented:** The decision is then finalised, and the contractor implements the derogation in accordance with this. Any review process with the relevant authority set out in the forms would be adhered to. The outcomes of this process would be included in the Relevant Authority review form. The Relevant Authority reviews the derogation at the monthly monitoring meeting.

THAMES WATER UTILITIES LIMITED

THAMES TIDEWAY TUNNEL

Exceptional circumstances review of the Transport Strategy

Explanatory Note:

The note below was issued to the 14 local planning authorities, Transport for London and the Port of London Authority on 5 December 2013. It was subsequently also issued to the Greater London Authority.

The note concerns a proposal by Thames Water to provide for the future review of the Transport Strategy to ensure that remains in line with the NPS policy for the 'cost effective' use of modes of transport other than road transport having regard environmental and social effects.

It was provided at the request of the local authorities, GLA, TfL and the PLA following discussion of the issue in a workshop with those organisations on 2 December 2013. A number of those organisations have commented on the document and those comments are under consideration and we expect to respond to those comments shortly and before the Issue Specific Hearing on Transport on Friday 24 January 2014.

The note is provided to the Examining Authority so that they are aware of the proposal. Given the nature of this proposal and the on-going nature of the discussion on this issue it has been kept separate from the 'Technical Advice Note, Draft Transport Strategy Summary' that was issued to the authorities, TFL and the PLA on 16 December 2013 and subsequently to the GLA. However it should be read alongside that note.

Berwin Leighton Paisner LLP

8th January 2014

1 Background

- 1.1 Thames Water's financial regulator (Ofwat) requires it to undertake capital expenditure in an effective and efficient manner.
- 1.2 The Wastewater NPS requires that construction materials and arising be moved by non-road modes including river transport where 'cost effective'.
- 1.3 The NPS seeks the 'cost effective' use of modes of transport other than road transport in order to avoid the environmental and asocial effects associated with road transport. The policy requires a balance to be struck between the environmental and social effects and 'cost effectiveness'. It is possible that decisions made now as to the 'cost effectiveness' having regard to environmental

and social effects of river transport may well be superseded by changes in circumstances that change the balance of cost effectiveness, i.e. it is possible that the Transport Strategy that Thames Water will commit to now further to the NPS policy will not result in the right balance between the environmental, social and economic effects, and the cost of delivery in the future as a result of a material change in circumstances. Given the financial regulatory environment that Thames Water operates in, and in which the IP will operate in, it is necessary to ensure that the Strategy can be reviewed if the existing strategy is no longer cost effective, and a new 'cost effective' strategy be adopted.

- 1.4 It is therefore intended to make provision for a mechanism to review the Transport Strategy in the event only of a material change in circumstances that affects the balance between cost of delivery and the benefits of the Transport Strategy commitments so that it is kept in line with the NPS policy. This review could be undertaken at any time, i.e. before commencement of construction or part way through depending on when a material change in circumstances occurs. This review would have to be within the remit of the environmental impact assessment presented in the Environmental Statement for the project taking account of available mitigation. It is also intended that if Thames Water is of the view that the existing strategy is no longer 'cost effective' in making an application for amendment of the Strategy it will be required to indicate what it considers to be the 'cost effective' strategy that should replace the existing strategy.
- 1.5 It should be emphasised that what is sought is a mechanism for review and the decision to be taken by an identified person or group. The decision would not be taken by Thames Water in isolation. Thames Water would be happy to see TfL and the relevant local authorities involved in this decision making process, to ensure that the appropriate balance between ensuring that delivery can be achieved in a timely and cost effective manner, and the balance of effects of Transport Strategy is reached. We understand that others may take the view that other bodies should be involved and we would welcome recommendations in respect of who these parties may be.
- 1.6 It should be noted that Thames Water considers it very unlikely that this process could result in an "all by road" scenario being sustainable at a site or sites as a result of a review of the strategy. This is because cost and benefit still needs to be balanced in an appropriate manner, and because the outcomes of the environmental assessment provide limits to what is considered acceptable within the confines of the DCO. It is anticipated that a review might change the balance between river and non – river modes but not lead to the abandonment of transport by river as a principle.

2 **Questions?**

- 2.1 Do stakeholders agree the principle of including such a review mechanism in the Transport Strategy? Not least having regard to the way in which any amendment to the Strategy secured by way of DCO requirement would have to be dealt with absent of such a mechanism.
- 2.2 Is the principle that the project should be constrained within the terms of the existing environmental statement accepted?
- 2.3 Do stakeholders agree that the mechanism for review should be established but that the mechanism should describe a general framework approach to decision making as opposed to trying to prejudge actual factual scenarios, thresholds etc. that would establish a bench mark of cost effectiveness?

- 2.4 Are there any specific features stakeholders would like to see in the framework for decision making? What do stakeholders feel are the appropriate time frames for making such a decision?
- 2.5 Who should make the decision? Options include the Relevant Authority, Independent Panel, Mayor of London, Secretary of State?
- 2.6 Any other comments or observations concerning the proposals put forward on behalf of Thames Water?

Berwin Leighton Paisner LLP

4 December 2013

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