

Thames Tideway Tunnel Development Consent Order Examination

Written Summary and comments on other submission Mayor of London Unique Ref no SP00032

2nd December 2013

Introduction

Officers from the Greater London Authority have attended a number of the Examination Hearing sessions since the start of the Hearing and have read through some, but not all, of the written submissions made for the 4th November deadline.

This written submission updates the Mayor of London's position on a number of strategic points relating to the project given evidence contained within those written submissions and presented at oral hearings.

Alternative Tunnel Drive sites and strategies

In written evidence and at Hearing sessions five alternatives have been suggested.

a) To remove the Carnwath Rd, Fulham drive site and drive the tunnel continuously from Kirtling Street, Nine Elms to Acton.

This proposal has the attraction that it removes a tunnelling site completely and therefore removes the considerable impacts that such activities would have.

Thames Water suggested that doing this is not desirable from a health and safety perspective and introduces increased tunnel construction risks due to the increased tunnel length and a requirement to include a level change within the tunnel. At the hearings it was suggested and broadly agreed that the through drive option would lengthen the construction programme by approximately 1 year and increase costs slightly.

GLA officers lack the detailed tunnelling expertise to challenge the Thames Water comments.

The Mayor is already concerned about the duration of construction works, the knock on impact in delaying regeneration and housing delivery and the overall cost of the project. There would also be an increase in impacts, in duration at least, at the Kirtling Street site.

Consideration of the through drive strategy would have to balance the increased tunnelling complications against the benefits of removing a construction site. This is a difficult judgement to make as the various pros and cons are not directly comparable and the Mayor does not seek to offer a view on the relative merits.

b) To move the Carnwath Rd tunnelling site to Barn Elms, LB Richmond.

This proposal was basically that it is better to disrupt part of a large playing field at Barn Elms which is relatively remote from housing rather than introduce a large construction project close to a mixed residential area of South Fulham and require the relocation of businesses on the Carnwath Industrial Estate. Local residents expressed concerns about HGVs, noise, vibration and health impacts.

The Mayor recognises that there will clearly be impacts at Carnwath Rd. Thames Water is proposing a building to cover the main works, noise mitigation measures and the use of barges to a considerable extent. The majority of the Carnwath Rd site is currently vacant whereas Barn Elms is designated Metropolitan Open Land. Furthermore, there would be difficulties in using barges at Barn Elms and, as such, it would be likely to require significantly more HGVs.

Having heard the submissions the Mayor remains of the view that the balance of planning arguments weighs in favour of utilising the Carnwath Road Riverside Site. Without commenting on the specific details of mitigation works proposed by Thames Water, in principle the impacts appear capable of reasonable mitigation.

To transfer the main tunnel drive site to Barn Elms is likely to result in a net increase in overall impacts, notably through the increased use of HGVs, and to replace one set of impacted communities for another.

c) To reverse the tunnelling direction of Chambers Wharf, Southwark, to Abbey Mills, Newham, to Abbey Mills to Chambers Wharf.

LB Southwark and local residents have made a case setting out the scale of impacts at the Chambers Wharf site. This is a site where residential properties border the site on 2 sides and through current development will border the road to the immediate south of the site by the time any consented scheme is under construction. Riverside Primary School is close to the construction site and on the main road access to the site and two other schools are in the local vicinity.

The alternative suggestion is that those impacts are reduced by tunnelling to the site rather than from it – as all the tunnelling spoil and construction materials would come in/out of the other end of the tunnel.

That other end would be at Abbey Mills in LB Newham. The site at Abbey Mills is, for the most part at least, within Thames Water ownership and is a reasonably large site. The nearest residential properties are further away than is the case at Chambers Wharf and there are significantly fewer properties within say 400m of the site compared to the Chambers Wharf site.

The key practical drawback to Abbey Mills is the more challenging navigation access, which is likely to mean that more materials would be transported by HGV.

The ability to use barges is the subject of disagreement with Thames Water agreeing that 3 barges/day could be used and opponents arguing that 5 would be possible. The PLA has offered to convene a workshop to investigate this. The possibility of

utilising a pipeline has also been suggested as much of the excavation materials will be in the form of a slurry.

The navigational characteristics at Chambers Wharf, would, by contrast, be positive, particularly with the Thames Water proposals to construct into the River Thames Foreshore giving navigational access for relatively large vessels available at all stages of the tide.

Thames Water has also suggested at the Hearing and in a letter to the PLA (27/11/13) that the pre-formed concrete segments would be delivered to Chambers Wharf by barge.

Any reversal of tunnelling direction is likely to lead to an increase in the impacts over the current proposals at the Abbey Mills site.

With the information available the alternative tunnelling direction would appear to have the ability to generate a net reduction in impacts. However, these impacts have not been assessed and consultation has not taken place on this specific option, the Mayor cannot offer a clear view on the balance of the argument.

It should be noted that LB Newham's acceptance of the Thames Water proposals, was based on Abbey Mills being a tunnel reception site.

At the Examination Hearing there was debate as to what would be involved in the detailed assessment and consultation requirements of the reversed tunnelling option. There was a difference of views with Thames Water suggesting that this would take 20-24 months, whilst others argued that given the previous work and limited area of additional land that would be affected, this process could be shorter. There did not appear to be a clear resolution to this discussion. The Mayor would be concerned if proposed changes would result in any significant delay to the decision making process due to the uncertainty that would create and to the knock on delay of any post tunnel redevelopment.

d) To replace the Deptford Church St Site, Lewisham with Borthwick Wharf Foreshore, Greenwich.

The current Deptford Church St site will impact on a primary school and a Grade 1 Listed Church which are in close proximity to the construction site. There are also a number of residential blocks in relatively close proximity. The Examination heard of the impacts that the construction programme would have on those particular buildings and people and some suggestions were made that Thames Water reverts to the previously proposed site at Borthwick Wharf Foreshore.

The Borthwick Wharf site would be closer to residential premises and would necessitate the construction of a tidal foreshore site.

It is clear that either site has significant impacts. Thames Water has demonstrated that the impacts can be mitigated to a reasonable level.

Having heard the submissions, the Mayor remains of the view that the balance of planning arguments weighs in favour of utilising the Deptford Church Street. Without commenting on the specific details of mitigation works proposed by Thames Water, in principle the impacts appear capable of reasonable mitigation.

To transfer the main tunnel drive site to Borthwick Wharf is likely to result in a net increase in overall impacts and to replace one set of impacted communities for another.

e) To replace the King Edward VII Memorial Park foreshore site, Tower Hamlets, with a combination of Heckford St industrial estate and King Edward VII Park, both within LB Tower Hamlets.

The local residents and LBTH have suggested that the proposed foreshore site be replaced with a site on an existing industrial estate with a connection site required in the park itself. The works within the park would be of a smaller scale and shorter duration (approx. 2-2.5 years as opposed to the 3.5 years at the Thames Water proposed foreshore site). The industrial estate is adjacent to the A1203 (The Highway) which is a busy part of the TLRN. The other 3 sides of the industrial estate are bounded by predominantly residential development.

Thames Water highlighted that the foreshore site enables the transport of materials by barge, although accepted that much of the material that would be transported by barge was directly in connection with the construction and removal of the foreshore site itself.

LB TH and local residents stated that the riverfront area of the park was the most valuable part of the park and was its special asset, and this would be impacted by the proposals to the greatest extent. It was also stated that at least one resident who would overlook any construction site at Heckford Street was, despite this, supportive of a change of site from the KEMP Foreshore site.

The Mayor recognises that the use of the Thames Water proposed site will have impacts.

Having heard the submissions the Mayor remains of the view that the balance of planning arguments weighs in favour of utilising the KEMP Foreshore site. Without commenting on the specific details of mitigation works proposed by Thames Water, in principle the impacts appear capable of reasonable mitigation.

To transfer the main tunnel drive site to Heckford Street Industrial Estate is likely to result in a net increase in overall impacts, notably through the increased number of properties that will be in close proximity to the main tunnel site and will retain a significant degree of disruption to the Park. Indeed the alternative would require more of the park itself to be used for construction, albeit for a shorter period of time.

Carnwath Road Riverside

Within the LB Hammersmith & Fulham Local Impact Report. And at the Examination Hearings, reference has been made to the potential regeneration and redevelopment of the sites proposed by Thames Water for the Tunnel construction. The Mayor would wish to see

such proposals come forward as soon after the completion of any consented tunnel as is reasonably practical. In the event of the tunnel not gaining Development Consent, then redevelopment proposals would be welcomed sooner. Indeed pre-application discussions relating to Whiffin and Hurlingham Wharves have taken place at various stages over the past decade or so.

To date however, and including planning application 2012/02048/FUL that LB H&F Planning Committee resolved to grant planning permission for on 8th January 2013, no proposals have come forward that suitably address and include a river freight wharf, compliant with the safeguarded wharf status of Hurlingham Wharf.

The Mayor has also continually disagreed with the approach taken by LB H&F in respect of Hurlingham Wharf and the Safeguarded Wharf Designation. The Mayor considers that the South Fulham Riverside SPG is not compliant with London Plan Policy and therefore suggests that no weight should be given to the impact of delays to non wharf development at Hurlingham Wharf, as such development does not appear to be capable of gaining planning permission.

DCO Requirements

As stated at the Examination, the Mayor sees the Requirements as principally a means to ensure adequate control of the local impacts of the project and therefore has in general made limited comment on them, except for strategic land-use/policy purposes.

Safeguarded Wharves

As set out in the Mayor's Local Impact Report, the Mayor feels that a number of proposed DCO requirements relating to the four construction sites located on safeguarded wharves should have an additional provision that the Mayor be required to agree in writing, the design and layout of the permanent structures, landscaping, access, fencing etc. It is envisaged that such a requirement could operate in a similar manner to the current requirement to consult the Mayor in respect of any development on a safeguarded wharf.

The reasons for this are to ensure that the safeguarded wharf sites are left in a suitable condition to enable their future use as river freight wharves. Furthermore, there are a range of other local and strategic policy objectives, such as establishing a good quality Thames Path, appropriate riverside landscaping, encouraging other productive land uses on adjacent sites, which could compete with the requirements of the wharves.

During the Examination discussions, the Panel enquired of the GLA whether the requirements for a wharf should be set out at this stage, and whether any of the potential interpretations of "maintenance" of the tunnel could present difficulties for the establishment of a wharf use. Having considered these issues it is the Mayor's consideration that some general requirements for a wharf could be set out but it is also recognised that wharf operators are generally reasonably flexible and the permanent site is expected to be generally capable of being designed to fit around the kinds of infrastructure proposed. The general principles would be:

- a generally flat site
- unobstructed access to the river wall and berthing area
- HGV access onto the surrounding highway network

- any structures grouped together and close to a site boundary to minimise the affected footprint
- adjoining development to be located and designed in a way that mitigates its exposure to the wharf operation.

Having further considered the definition of “maintenance”, it does appear that taken to the extreme, the removal, replacement or improvement of permanent structures such as ventilation shafts, could represent a detrimental impact on the operation of a future wharf, if say that plant were to be much larger or placed in an alternative location. In practice this would appear unlikely, but the fact that it would be possible is a concern and the Mayor would therefore like to add his concern regarding the broad definition of the term “maintenance” given in DCO Article 1.

Requirement PW8

This requirement states that the Greater London Authority would be the discharging authority for this Requirement relating to the Air Management Plan. Thames Water officers raised this with the GLA following the GLA’s review of its role in proposed S106 agreements, (see below).

The GLA has concerns relating to the ability and expertise of the GLA to appropriately regulate and enforce such a Requirement.

The GLA does not generally have a role in the enforcement of planning conditions. Even in the relatively small number of cases (8 to date) where the Mayor has issued a direction pursuant to article 7 of the Town and Country Planning (Mayor of London) Order 2008 that he is to be the local planning authority for the purposes of determining a planning application, the relevant borough planning authority has remained the discharging and enforcing authority in respect of any planning conditions. Of course, there is no scope in any event for the Mayor to issue such a direction in relation to a DCO application.

Further discussion during the Examination process is likely to be required between the GLA and Thames Water in this respect in order to clarify the role of the GLA in relation to Requirement PW8.

Section 106 / Legal Planning Agreements

The GLA has been in discussion with Thames Water and the Environment Agency and has been supplied with draft heads of terms in relation to two proposed legal agreements (under Greater London Authority Act powers), one relating to Monitoring of Groundwater Levels, and one in relation to Habitat Compensation for lost foreshore habitats.

The draft Statement of Common Ground between the Mayor and Thames Water currently notes that the Mayor might, in principle, find it acceptable to be the strategic lead in such matters.

The GLA does not generally have the capacity to enter into or enforce planning obligations pursuant to s106 of the Town and Country Planning Act 1990 unless (as noted above in relation to planning conditions) the Mayor issues an article 7 direction in respect of a planning application, in which case he assumes responsibility for agreeing any related planning obligation.

The GLA has however considered the draft heads of terms for the two agreements which are proposed to be made under more general powers contained within the Greater London Authority Act 1999 (“the 1999 Act”).

The GLA has advised Thames Water that, notwithstanding the issue of its legal capacity to enter into such agreements, a number of other concerns arise. These relate to for example: the GLA’s ability to enforce the agreements; the extent to which it is further constrained by the 1999 Act, in relation to property and financial matters; the risk of liability or legal challenge attaching to the GLA, for example arising out of a decision or an approval pursuant to either agreement; a lack of necessary expertise in relation to these technical areas and the general lack of available resource given that this is not core business for the GLA.

Statement of Common Ground

The current draft Statement of Common Ground submitted to the Examination is likely to require some amendments to reflect the items stated above.