



Application for Development Consent

Application Reference Number: WWO10001

Written summaries of the cases
put orally at the hearings held
on 3 December 2013

Doc Ref: **APP42.3**



Compulsory acquisition hearings

Day 3 – 03.12.13

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1 Introduction

- 1.1.1 This document contains a written summary of the oral submissions made by Thames Water Utilities Limited ('Thames Water') at the compulsory acquisition hearing held on 3 December 2013, as part of the examination of the application for development consent for the Thames Tideway Tunnel project. The Examining Authority ('ExA') in respect of the application set out the agenda for the compulsory acquisition hearings ('Agenda') by way of a letter, dated 18 November 2013, addressed to interested parties. This written summary of Thames Water's submissions is broadly structured by reference to the items on that Agenda that were addressed at the hearing on 3 December 2013.

2 Preliminary matters

2.1 Legal submissions by Michael Humphries QC

- 2.1.1 Thames Water is re-examining and intending to engage, where appropriate, with other parties on the various noise insulation and other mitigation compensation strategies. Those will include the *Noise Insulation and Temporary Rehousing Policy*, the settlement deed, the exceptional hardship procedure, the non-statutory mitigation compensation procedure and the non-statutory disturbance compensation procedure.
- 2.1.2 In relation to the *Noise Insulation and Temporary Rehousing Policy*, Thames Water will be identifying 'special cases' – and these would include vulnerable groups in terms of type of receptor – for example, houseboats, schools, places of worship and so on, being receptors that may require bespoke mitigation in the form of noise insulation. Thames Water is developing trigger action plans for those special cases.
- 2.1.3 Thames Water is also, separately, looking at other documents, including the *Design Principles*. Thames Water anticipates that communities will want to have an opportunity to input to landscaping and other matters that will relate to the 'legacy' as sites, after construction work is completed; so matters such as design principles are being looked at again. In addition, the *Code of Construction Practice*, the *Transport Strategy* and various other matters are being considered by Thames Water to take on board feedback from the hearings and ongoing engagement with other parties.

3 Extra agenda item – alternatives to compulsory acquisition

3.1 Legal submissions by Michael Humphries QC

- 3.1.1 The ExA raised an 'additional' agenda item for each worksite and length of tunnel relating to alternatives to compulsory acquisition, by reference to

the advice in paragraph 8 of the DCLG Guidance on compulsory acquisition. Thames Water indicated that it would submit to the ExA, for each borough-specific CA hearing, suitable extracts from the submitted plans showing site layout, works plan with section, land plan and land acquisition plan. Relevant witnesses would explain (a) the engineering justification for the land and powers included in the *Draft DCO*, (b) how the property discipline, including the potential need for compulsory purchase, was taken into account in scheme selection, and (c) progress on negotiations with landowners, with a view to acquiring land, rights or powers by agreement. These witnesses, and such others that the ExA's might require to explain matters, would be made available for questioning.

Comments on the principle of tunnel vesting

- 3.1.2 It is anticipated that the compulsory purchase powers would be implemented by a general vesting declaration which, on the declaration taking effect, would transfer title in the land. Thames Water contemplates taking possession of the land for tunnel construction under its Article 34 (temporary possession powers), which would allow it to acquire, under any general vesting declaration, only that land actually required for the tunnel, as built, together with its protective zone.
- 3.1.3 Similarly at the surface sites, Thames Water contemplates being able to use its temporary possession powers to construct the permanent works and then only acquire that land actually required as operational land, or for maintenance or access to the operational land. This ability to take temporary possession to construct the works before vesting title is particularly important where parameters are shown within which the permanent works may be located, as it allows Thames Water to only vest that land actually required for the works, as built. Clearly, this does not apply to the Schedule 14 land, where only temporary possession may be taken.

Carnwath Road riverside – comments on settlement deed

- 3.1.4 Thames Water recognises that at Carnwath Road Riverside, as with other shaft sites, there will not actually be any tunnelling for some time – indeed, several years at some sites. Thames Water has therefore been considering a process by which, at an appropriate period before the tunnel boring machine (TBM) would be expected to pass a property, Thames Water would write to the then owners of those properties and would make them aware that they can apply for a settlement deed. This will be included in the revised settlement information paper that is being prepared.

Comments on the need for temporary use powers on the highway

- 3.1.5 In line with one of the principal objectives of the new Planning Act 2008 regime to provide a single consenting procedure, Thames Water has sought to include all appropriate consents within its *Draft DCO*. In the

context of Acton Storm Tanks, the ExA was keen to understand why highways works could not be secured by agreement with the local highway authority under Section 278 of the Highways Act 1980 and why it was necessary to take temporary possession powers to undertake those works in the DCO.

- 3.1.6 Thames Water recognised that, if a Section 278 agreement was signed with a local highway authority, whether at Acton Storm Tanks or other sites, then it may not be necessary to exercise any temporary possession power. In default of having anything signed during the Examination, however, Thames Water believes it appropriate to take the necessary power and, in any event, would always want to have a default power so that it could ensure that any highway works are undertaken in accordance with the project programme.
- 3.1.7 In the case of Canham Road (London Borough of Ealing), there is a DCO requirement (ACTST8) to cover the approval of the strengthening details on Canham Road. The temporary use powers in the *Draft DCO* would allow the undertaker to go in and carry out those strengthening works and there is no need for the road to be permanently acquired. These matters have been discussed with the London Borough of Ealing.

The operation of Article 34

- 3.1.8 Under Article 34(1)(a), there are two bases on which the undertaker can take temporary possession of land. Under 34(1)(a)(i), which relates to the Schedule 14 land, the undertaker can only take temporary possession and must then restore the land, subject to certain exceptions.
- 3.1.9 By contrast, for the Article 34(1)(a)(ii) land, that is any other order land, the undertaker can take temporary possession but is also able to permanently acquire that land where so identified in the *Book of Reference*. Where Thames Water has identified a larger area of land for compulsory acquisition, the undertaker may go onto that land under the 34(1)(a)(ii) power, carry out certain works and then compulsorily acquire just that area actually needed for the permanent works.

Comments on the valuation of open space

- 3.1.10 In its Section 131 application to DCLG, Thames Water has used industrial land values in relation to the prohibitive cost test in Section 131(4A), that is, as a basis for determining whether the cost of replacement open land is prohibitive. However, the Section 131 application makes clear, as do a number of answers to the ExA's first written questions, that the value of the open space being acquired will reflect its value as open space, which is likely to be low. Industrial use value is, therefore, simply used as a benchmark for assessing whether the cost of providing replacement land is prohibitive; it is not intended to indicate that the open space being acquired for the project itself has industrial land value. This is reflected in Thames Water's earlier responses in relation to questions about 'certificates of appropriate alternative value'.

- 3.1.11 One of the factors taken into account at site selection stage was the risk of Special Parliamentary Procedure in relation to the acquisition of open space land. That risk remains, although the Growth and Infrastructure Act 2013 has added additional grounds under which the Secretary of State may grant a certificate.

Options at CRR

- 3.1.12 Thames Water wishes to maintain an LLAU at Carnwath Road Riverside that would allow it to construct a jetty for barge loading/unloading, as well as the alternative of using campsheds. The response to the ExA's first written question 4.42 points to the issue of the poor state of the river wall at Carnwath road Riverside and this leads to some considerable uncertainty that campsheds could be successfully provided. Thames Water has provided, therefore, what is, in effect, a 'Rochdale envelope' to allow it to construct either a jetty or campsheds. Indeed, it is because there is considerable uncertainty over the ability to construct the campsheds that there is a compelling case for taking the land to construct the jetty. Clearly, if it is subsequently discovered that a campshed can be constructed, then Thames Water would not need to acquire the full extent of the LLAU in this area.

4 Main tunnel

4.1 Submissions by Derek Arnold

Introduction

- 4.1.1 The following documents were referred to:
- a. *Engineering Design Statement* (Doc ref: 7.18)
 - b. Response to first written question 4.37g (Doc ref: APP04).
- 4.1.2 The *Engineering Design Statement*, Section 6, deals with tunnels and sets out the principles that have guided us in selecting the tunnel alignment.
- 4.1.3 We have chosen the tunnel alignment to avoid, wherever possible, going under deep foundations or areas of land where we can foresee there may be a development which would lead to new foundations. We have considered the geological conditions along the alignment and chosen our alignment to avoid known geological conditions which would make tunnelling more difficult and more hazardous. We have also considered hydraulic factors when aligning the tunnel such as minimising changes of direction. Our vertical alignment is controlled by hydraulic designs and, ultimately, the need to tie in to the Lee Tunnel at Abbey Mills Pumping Station in Newham.
- 4.1.4 We have considered how the tunnels will be built and our preference for the western end of the main tunnel is use an 'earth pressure balance machine'. A tunnel of this size has practical constraints on the radius that

- a TBM of this type can follow so we have limited radius to 600 metres measured on the centre line.
- 4.1.5 We also consider the potential for settlement or ground movement and have chosen an alignment that takes account of existing bridges and railways and other structures by, for example, aligning the tunnel through the mid span of bridges.
- 4.1.6 In Section 3 of the *Engineering Design Statement*, we describe the limit of deviation and the tunnel protection zone. Our proposal is to have a two-stage land acquisition process, whereby we first seek land within the order limits temporarily, but then secondly, we permanently acquire a rectangular block (tunnel plus protection zone) of ground when we have finalised the tunnel alignment and have built the tunnel.
- 4.1.7 Near Acton Storm Tanks, the main tunnel is a 6.5 metre internal diameter tunnel and the limits of deviation that we've shown on our plans for this tunnel are, in overall width, 28.5 metres wide (14.25 metres either side of the centre line). That dimension is made up of the internal diameter of the tunnel (6.5 metres), a tunnel protection zone on each side of that (6 metres) and an alignment adjustment (5 metres).
- 4.1.8 Section 5 of the *Engineering Design Statement* explains why we need an alignment adjustment allowance. We need some tolerance for the practical considerations of building the tunnel on a precise alignment. Once the alignment has been set, we do not expect the tunnel to deviate very much, but there will be some small deviations in alignment which need to be allowed for. We do want to allow for an ability to make small alignment adjustments, to allow for increases in clearance to existing above-ground or below-ground third-party infrastructure that we may need to agree with asset owners in order to minimise the impact.
- 4.1.9 In engineering terms, it is usual to allow the final design of a tunnel to be determined by the contractor. The contractor will be required, having chosen his tunnelling methods, to undertake more detailed assessments to determine the potential impact of the works on existing assets, whether they be buildings, bridges or tunnels. During that process, it is sometimes necessary to make small adjustments to the alignment. Therefore, we would argue strongly that we need some flexibility to finalise this at a point in the future, when our contractors are appointed and have had time to undertake their detailed designs.
- 4.1.10 This project has gravity tunnels, where the combined sewage flows by gravity, has limited potential for vertical adjustment. We have a 3 metre upwards vertical alignment adjustment for the tunnel which is smaller than the horizontal alignment adjustment because there is less scope for vertical adjustment. All aspects mentioned above, for example, deep foundations and geological conditions along the tunnel, would potentially lead to vertical tunnel alignment adjustments.

Abinger Road

- 4.1.11 A resident of Abinger Road has suggested that the tunnel could be moved slightly and constructed under allotments, which are adjacent to their gardens, and then there wouldn't be a need to acquire their land.
- 4.1.12 The TBM can create a tunnel with an alignment which is anything between straight and 600 metres radius, being the preferred minimum. The technical reasons for the 600 metres minimum is the articulation of the TBM itself and how the tunnel lining is built at the rear end of the TBM. Tunnels have been built with smaller radii, but we consider 600m to be an appropriate radius for a tunnel of this size (6.5m and 7.2m internal diameter). Where a tunnel goes under land, the consequences of having a smaller radius are not only those technical reasons about getting the machine itself to negotiate a tighter corner and then build the tunnel lining, but also a potential for slightly increased ground movement and settlement as a consequence of that. So we think that, for a large tunnel in an urban area, this is an appropriate radius to choose.
- 4.1.13 The geometry of the TBM and the building of the tunnel primary lining, which is built by erecting rings of precast concrete segments, are similar for all of the TBM tunnels on the project. Therefore, 600 metre minimum radius applies to whole length of the main tunnel.
- 4.1.14 The tunnel alignment considerations in the area of Abinger Road are described in our response to first written question 4.37. The alignment is influenced by the 600m radius minimum and other constraints mentioned above. In particular, designing the alignment starts by St Paul's School in Richmond at one end and is influenced by the need to avoid two buildings (Ember Court and Roding Court, which are expected to have piled foundations) at the Acton Storm Tanks end. The tunnel has been designed to follow an alignment between Roding Court and the properties at the top of Woodstock Road, and this results in the alignment passing under some gardens at the end of Abinger Road and Woodstock Road.

5 Acton Storm Tanks

5.1 Submissions by Derek Arnold

Introduction

- 5.1.1 The following documents were referred to:
- a. *Engineering Design Statement* (Doc ref: 7.18)
 - b. Response to first written question 4.31g (Doc ref: APP04)
 - c. Construction phase drawing number DCO-PP-02X-ACTST-050016
 - d. Works plan and section drawing number DCO-WP-000-ZZZZZ-010002
 - e. Land plan drawing number DCO-LP-000-ZZZZZ-030002 - Rev 1

- f. Land acquisition plan drawing number DCO-LA-000-ZZZZZ-020002 - Rev 2
- 5.1.2 In the *Engineering Design Statement*, we set out how the site would be used.
- 5.1.3 In our response to first written question 4.31g, we describe the alternative locations we considered for the permanent works. Our first consideration was to think about where we would locate the main tunnel shaft at the end of the tunnel and how that would be connected to the existing sewer and a number of alternative main tunnel shaft locations within the site at Acton Storm Tanks were considered.
- 5.1.4 The construction phase plan shows our assessment of how we think the works will be built and what land will be used to provide various support facilities that are needed to build a main tunnel shaft here and CSO interception structures. This site is an existing Thames Water site and we have to fit our construction activities around these facilities that will remain operational.
- 5.1.5 The land acquisition plan drawing shows the difference between the land which we seek to permanently acquire, either as surface and subsoil land or as subsoil only land, and the land that we seek to use for construction purposes but is not needed permanently. The areas require permanently are the minimum necessary, but subject to the qualification that the areas shown fall within the parameters that we have identified for locating the works to allow for the final design of the works and any minor changes that are required as a result of further investigations. The parameters do allow appropriate flexibility in terms of locating the permanent works.

Pipeline

- 5.1.6 There is a need to construct a pipeline which runs down the southwest edge of the site which will be a new overflow pipeline to allow the storm flows to bypass the tunnel and be connected to the existing storm relief sewer when the tunnel is unable to take those flows. The pipeline will be connected to existing storm relief sewer via a new chamber over the existing sewer in the south eastern corner of the site.
- 5.1.7 The parameter polygon around the pipeline is drawn a little bit wider than the pipe to allow for final design and alignment adjustment. The polygon around the chamber is wider as there is less certainty about the exact location of the underground sewers.
- 5.1.8 The design solution for the Acton Storm Tanks site includes the construction of approximately of a 1.8m diameter storm overflow pipework, an overflow chamber and an overflow connection chamber along the western perimeter of the site. This is illustrated in the *Book of Plans*, Doc ref: 2.05 Acton Storm Tanks, drawing numbers: DCO-PP-02X-ACTST-050008 and 050009.
- 5.1.9 This pipework and associated hydraulic chambers will enable excess flows to be transferred to the existing Acton Storm Relief CSO pipework when the main tunnel is either full or unavailable due to tunnel maintenance.

- 5.1.10 It is anticipated that the construction of the pipework will be undertaken by traditional 'open -cut' excavation, as opposed to tunnelling, due to the shallow construction depths required.
- 5.1.11 The western perimeter of the Thames Water operational site is bounded by a third-party plot of land currently utilised for vehicle car parking, whereby a perimeter fence and sections of retaining wall define the boundary between the two land plots.
- 5.1.12 A strip of land currently separates the structural walls of the storm tanks from the western perimeter fence of the Acton Storm Tanks site. This strip of land is currently grassed and is located within the existing perimeter of the operational site.
- 5.1.13 The proposed alignment for the overflow pipework is along the grassed strip of land such that, once completed, the pipework would be laid within the Thames Water operational site.
- 5.1.14 The width of this grassed strip of land currently varies between approximately 7.4m at its maximum, down to approximately 3.7m at its narrowest. It is considered that this width does not provide sufficient space for the safe construction of the overflow pipework and associated hydraulic chambers.
- 5.1.15 An area of the third-party car parking area, approximately 2m in width, is therefore required temporarily during the construction phase of the pipework. The additional larger areas are required to construct the overflow chamber and the overflow connection chamber. This land is defined as Plots 5, 24, 26 and 38 on Land Plan, Main tunnel sheet 1, DCO-LP-000-ZZZZZ-030002, within the *Book of Plans*, Section 3.
- 5.1.16 It is anticipated that this land would be required for a duration of approximately three to six months, during which areas of car parking within the area would be temporally suspended.
- 5.1.17 The location of the overflow connection chamber is dependent upon the exact configuration of existing pipework in the southern region of the Thames Water operational site. Consequently, it may be necessary to locate part of this chamber beneath the third-party car parking area. This is identified as Plot 38 on the above mentioned Land Plan.
- 5.1.18 Powers are sought to permanently acquire Plot 38 to enable the location of parts of the overflow chamber beneath the third-party lands, if necessary.

Canham Road

- 5.1.19 The Panel sought clarification on why Canham Road is included within the order land when the reason for it seems to be the same as that for Stanley Gardens and Warple Way (parking suspension), which are not.
- 5.1.20 Thames Water confirmed that there will be kerb alignment modifications at the junction of Warple Way and Canham Road, and at the junction of Canham Road and Stanley Gardens. There may also be a need to strengthen Canham Road as concerns have been raised about construction traffic on Canham Road.

5.2 Submissions by Stephen Walker

Alternatives – property assessment

- 5.2.1 The DCO document reference relevant to this response is 7.05 Volume 3 and it is the *Final Report on the Site Selection Process* submitted by the applicant on 23 September 2013.

Introduction

- 5.2.2 The site selection process identified four final shortlisted sites for this CSO in the London Borough of Ealing. The property team made an assessment for each of the shortlisted sites, as follows.

SO2EG – Commercial Units Stanley Gardens

- 5.2.3 The site with this reference number was described as 'Commercial Units, Stanley Gardens'.
- 5.2.4 The site, predominantly an industrial estate in employment use, was found to be in multiple ownership, with a broad range of occupiers and tenants, of whose lease terms we did not establish.

Crown land and special land comments

- 5.2.5 At this site, we did not identify any Crown land interests or other special categories of land.

Property valuation comments

- 5.2.6 On account of the density of industrial development in an established employment area, the potential cost to acquire the property on this site was assessed as high but likely to be acceptable. There was no expectation that these areas might hold a higher alternative use value which could otherwise affect this assessment.

Disturbance compensation comments

- 5.2.7 On site, a number of businesses would need to be relocated. We anticipated that, in reasonably close proximity, it would be possible to identify relocation premises but the costs would likely be high and the extent of disruption significant.

Discretionary purchase comments

- 5.2.8 The site is adjacent to residential properties. Given the already industrial neighbourhood, the potential for increased disturbance was assessed as modest, with a low potential for discretionary purchase costs.

Off-site compensation comments

- 5.2.9 The site was assessed to hold little or no risk of off-site statutory compensation costs.

- 5.2.10 The site is adjacent to residential properties and, despite the proximity to the existing industrial use, the potential for claims under the non-statutory compensation schemes was assessed as modest.

Site conclusions

- 5.2.11 The prospect of acquisition by agreement in advance of compulsory acquisition was considered low.

- 5.2.12 The site was assessed by the property team as less suitable.

SO3EG – Acton Park Industrial Estate

- 5.2.13 The site with this reference number was described as 'Acton Park Industrial Estate'.

- 5.2.14 The site, predominantly an industrial estate in employment use, was found to be owned by Segro Plc, with a broad range of occupiers and tenants, of whose lease terms we did not establish.

Crown land and special land comments

- 5.2.15 At this site, we did not identify any Crown land interests or other special categories of land.

Property valuation comments

- 5.2.16 On account of the density of industrial development in an established employment area, the potential cost to acquire the property on this site was assessed as high but likely to be acceptable. There was no expectation that these areas might hold a higher alternative use value which could otherwise affect this assessment.

Disturbance compensation comments

- 5.2.17 A number of businesses on the site would need to be relocated. We anticipated that it would be possible to identify relocation premises within reasonably close proximity, but the costs would likely be high and the extent of disruption significant.

Discretionary purchase comments

- 5.2.18 The site is adjacent to residential properties. Given the already industrial neighbourhood, the potential for increased disturbance was assessed as modest, with a low potential for discretionary purchase costs.

Off-site compensation comments

- 5.2.19 The site was assessed to hold little or no risk of off-site statutory compensation costs.

- 5.2.20 The site is adjacent to residential properties and, despite the proximity to the existing industrial use, the potential for claims under the non-statutory compensation schemes was assessed as modest.

Site conclusions

- 5.2.21 The prospect of acquisition by agreement in advance of compulsory acquisition was considered low.
- 5.2.22 The site was assessed by the property team as less suitable.

SO4EG – Industrial Units Allied Way

- 5.2.23 The site with this reference number was described as 'Industrial Units, Allied Way'.
- 5.2.24 The site, predominantly an industrial estate in employment use, was found to be in split ownership, with a broad range of occupiers and tenants of whose lease terms we did not establish.

Crown land and special land comments

- 5.2.25 At this site, we did not identify any Crown land interests or other special categories of land.

Property valuation comments

- 5.2.26 On account of the density of industrial development in an established employment area, the potential cost to acquire the property on this site was assessed as high but likely to be acceptable. There was no expectation that these areas might hold a higher alternative use value which could otherwise affect this assessment.

Disturbance compensation comments

- 5.2.27 On site, a number of businesses would need to be relocated. We anticipated that it would be possible to identify relocation premises within reasonably close proximity, but the costs would likely be high and the extent of disruption significant.

Discretionary purchase comments

- 5.2.28 The site is bounded on three sides by residential properties. Given the already industrial neighbourhood, the potential for increased disturbance was assessed as modest, with a low potential for discretionary purchase costs.

Off-site compensation comments

- 5.2.29 The site was assessed to hold little or no risk of off-site statutory compensation costs.
- 5.2.30 The site is bounded on three sides by residential properties and, despite the proximity to the existing industrial use, the potential for claims under the non-statutory compensation schemes was assessed as modest.

Site conclusions

- 5.2.31 The prospect of acquisition by agreement in advance of compulsory acquisition was considered low.
- 5.2.32 The site was assessed by the property team as less suitable.

SO1EG – Acton Storm Tanks

- 5.2.33 The site with this reference number was described as 'Acton Storm Tanks' and was the selected site.
- 5.2.34 The site is predominantly an operational sewage works owned by Thames Water. Other land interests are held by London Borough of Ealing and a developer known as Lemon Land, which owns a strip of land in car park use to the southwest of the site.

Crown land and special land comments

- 5.2.35 At this site, we did not identify any Crown land interests or other special categories of land.

Property valuation comments

- 5.2.36 The site is already majority owned by Thames Water. The potential cost to acquire the other property on this site was assessed as likely to be acceptable. There was some expectation that the area of car parking might hold a higher alternative use value.

Disturbance compensation comments

- 5.2.37 We assessed disturbance costs of the car parking spaces and concluded that these would not be significant.

Discretionary purchase comments

- 5.2.38 The site is adjacent to commercial and residential properties. Given the already industrial neighbourhood, the potential for increased disturbance was assessed as modest, with a low potential for discretionary purchase costs.

Off-site compensation comments

- 5.2.39 The site was assessed to hold little or no risk of off-site statutory compensation costs.
- 5.2.40 The site is adjacent to residential properties and, despite the proximity to the existing industrial use, the potential for claims under the non-statutory compensation schemes was assessed as modest.

Site conclusions

- 5.2.41 The prospect of acquisition by agreement in advance of compulsory acquisition was considered reasonable.
- 5.2.42 The site was assessed by the property team as suitable.

Conclusions by property team

- 5.2.43 The selected site makes use of the existing Thames Water ownership at Acton Storm Tanks.
- 5.2.44 The alternatives to this site were explored and, in all cases, would require the use of compulsory acquisition to a greater extent than at the subject site.

6 Carnwath Road Riverside

6.1 Submissions by Derek Arnold

Introduction

- 6.1.1 The following documents were referred to:
- a. *Engineering Design Statement* (Doc ref: 7.18)
 - b. Response to first written question 4.31g (Doc ref APP04)
 - c. Permanent works layout drawing number DCO-PP-06X-CARRR-090007
 - d. Construction phase drawing number DCO-PP-06X-CARRR-090015
 - e. Works plan and section drawing number DCO-WP-000-ZZZZZ-010018
 - f. Land plan drawing number DCO-LP-000-ZZZZZ-030015 - Rev 2
 - g. Land acquisition plan drawing number DCO-LA-000-ZZZZZ-020015 - Rev 1.
- 6.1.2 In the *Engineering Design Statement*, we set out how the site would be used.
- 6.1.3 In our response to first written question 4.31g, we describe the alternative locations we considered for the permanent works. We looked at alternatives to locate the main tunnel shaft on Whiffin Wharf, Hurlingham Wharf, or on the industrial land to the east, but we chose to put the permanent works on Whiffin Wharf.
- 6.1.4 The construction phasing plan drawing shows the site set out with two points of access off Carnwath Road. We propose to use river-based transport and have allowed for two different arrangements for barges to be brought in, and either berthed on jetties or berthed along the river wall and resting on campsheds. The reason why it is not possible to confirm that the campshed option would work at this stage partly depends on the contractor's construction methods and the condition of the river wall along the frontage of the Carnwath Road industrial estate, which we have not been able to investigate.
- 6.1.5 There is a small area of land at the junction of Carnwath Road and Wandsworth Bridge Road, shown as a separate LLAU to the east of the main site. That area is required to modify the geometry of the curve of the road junction, so that vehicles entering Carnwath Road from the south, having crossed Wandsworth Bridge, have a more acceptable turning radius into Carnwath Road. A sliver of land is required permanently where the back of the footway is realigned to become highway.
- 6.1.6 Although the permanent works are located on Whiffin Wharf and the main tunnel shaft has been located as far to the east as possible, part of the shaft protrudes into Hurlingham Wharf. However, the access covers, giving access to the shaft and the other structures beneath the ground

here, are located to the west of the boundary. Therefore, there are no above-ground restrictions on the safeguarded area, and a high loading level would be permitted there because there are no access covers. There will be a 10-metre safeguarding zone (the term stand-off was used in oral presentations) from the outside face of the main tunnel shaft, within which the local planning authority must consult the undertaker. The 10-metre safeguarding zone would not be permanently acquired.

6.2 Submissions by Stephen Walker

Alternatives – property assessment

- 6.2.1 The DCO document reference relevant to this response is 7.05 Volume 9 and it is the *Final Report on the Site Selection Process* submitted by the applicant on 23 September 2013.

Introduction

- 6.2.2 The site selection process identified four final shortlisted sites for this CSO in the London Borough of Hammersmith and Fulham. The property team made an assessment for each of the shortlisted sites as follows.

S17RD – Barn Elms

- 6.2.3 The site with this reference number was described as 'Barn Elms Playing Fields'.
- 6.2.4 This area of public open space is Metropolitan Open Land and is used as playing fields. The site is owned by the London Borough of Wandsworth and falls into the London Borough of Richmond upon Thames. There are also parts of the land owned by the Wimbledon and Putney Common Conservators.
- 6.2.5 There is a boathouse and sailing club on the edge of the river that require access from the area of playing fields.
- 6.2.6 Access to this site for both the construction and operational phase would be via a route following the river and onto Queen Elizabeth Walk.

Crown land and special land comments

- 6.2.7 Designation as public open space triggers the requirement to provide replacement land for that which is taken permanently for the project, unless an appropriate agreement can be reached with the landowner. If not provided, the applicant would need to apply for a certificate under s131/132 and, failing this, may be required to follow Special Parliamentary Procedure to secure use of this site.
- 6.2.8 Two of the access options would also likely require the permanent acquisition of common land, although positive discussions with the conservators reduced concerns in this respect.

Property valuation comments

- 6.2.9 The identification and provision of replacement land was factored into the property cost assessment and, aside from the risks associated with not finding replacement land, the cost would be significant but likely acceptable for a main shaft site.

Disturbance compensation comments

- 6.2.10 Users of the playing fields would be disrupted for several years. Accessibility to the boathouse and sailing club would need to be protected to minimise disruption at this site. The access route identified for this site would require demolition of a changing-room block and removal of athletics facilities. These would be reprovided and the costs of this are captured in this assessment.

Discretionary purchase comments

- 6.2.11 The site is near residential properties but not adjacent. The access road does pass very close to houses on Queen Elizabeth Walk. The risk of discretionary purchase at this site was assessed as a medium risk of successful applications.

Off-site compensation comments

- 6.2.12 The site was assessed to hold some risk of off-site statutory compensation costs due to the potential disruption to river-based events and activities. Such cost would likely be mitigated and therefore acceptable.
- 6.2.13 The site and access is also near to residential properties, with some potential for claims under the non-statutory compensation schemes, particularly on account of the timescales and activity involved with a drive site.

Site conclusions

- 6.2.14 The prospect of acquisition by agreement in advance of compulsory acquisition was considered low, due to the level of objections received from stakeholders in connection with use of this site as a main drive location. The landowner, London Borough of Wandsworth, was also against use of the site and this added risk to the acquisition on account of it being special category land. There would therefore be some risk of delayed acquisition.
- 6.2.15 The site was assessed by the property team as less suitable.

S72HF – Fulham Depot

- 6.2.16 The site with this reference number was described as 'Fulham Depot'.
- 6.2.17 The site is privately owned and occupied by a car auction company and a fuel oil company. It is in the London Borough of Hammersmith and Fulham.

- 6.2.18 As an alternative to Carnwath Road Riverside, this option would only be suitable as an intermediate shaft site, not a main drive site, on account of its limited size.

Crown land and special land comments

- 6.2.19 At this site, we did not identify any Crown land interests or other special categories of land.

Property valuation comments

- 6.2.20 The value of the site was assessed as significant. In February 2012, planning consent was obtained partly on this site and on neighbouring land for residential development. It was apparent that the rest of this site could also have a higher alternative use value, which affected this assessment.

Disturbance compensation comments

- 6.2.21 The businesses on the site would need to be relocated. We identified that the fuel oil company had underground tanks and that relocation costs could therefore be substantial. It would also be difficult to identify a suitable alternative site for this use, which is not generally preferred by landlords in this area. The costs would likely be substantial but the extent of disruption was balanced against the redevelopment potential, which would require relocation of the businesses in any event.

Discretionary purchase comments

- 6.2.22 The site is adjacent to residential properties and, if development occurs, will be near to more new residential properties. We assessed reasonable potential for discretionary purchase costs.

Off-site compensation comments

- 6.2.23 The site was assessed to hold little or no risk of off-site statutory compensation costs.
- 6.2.24 The site is adjacent to residential properties, with the potential for claims under the non-statutory compensation schemes.

Site conclusions

- 6.2.25 The prospect of acquisition by agreement in advance of compulsory acquisition was considered reasonable, but the prospect of removing the businesses less likely due to the lack of relocation options.
- 6.2.26 The site was assessed by the property team as suitable.

S18WH – Feathers Wharf

- 6.2.27 The site with this reference number was described as 'Feathers Wharf'.
- 6.2.28 This is a vacant wharf owned by the London Borough of Wandsworth and Western Riverside Waste Authority. It was used as a temporary recycling centre until recently and is now let to a commercial tenant.

6.2.29 It is earmarked for mixed-use development, and any development would need to ensure that there is no impact on the operational activities on the adjacent safeguarded wharf.

6.2.30 As an alternative to Carnwath Road Riverside, this option would only be suitable as an intermediate shaft site, not a main drive site, on account of its limited size.

Crown land and special land comments

6.2.31 At this site, we did not identify any Crown land interests or other special categories of land.

Property valuation comments

6.2.32 The value of the site was assessed as significant. In September 2010, planning consent was granted for a high-density, mixed-use development. It was apparent that this site has a higher alternative use value which affected this assessment.

Disturbance compensation comments

6.2.33 The business on the site would need to be relocated. It may be difficult to identify a suitable alternative site for the occupier. The costs would likely be substantial but the extent of disruption was balanced against the redevelopment potential, which would require relocation of the business in any event.

Discretionary purchase comments

6.2.34 The site is adjacent to new, high-density, riverside residential properties and we assessed a reasonable potential for discretionary purchase costs.

Off-site compensation comments

6.2.35 The site was assessed to hold little or no risk of off-site statutory compensation costs.

6.2.36 The site is adjacent to residential properties, with the potential for claims under the non-statutory compensation schemes.

Site conclusions

6.2.37 The prospect of acquisition by agreement in advance of compulsory acquisition was considered reasonable.

6.2.38 The site was assessed by the property team as suitable.

S87HF – Carnwath Road Riverside

6.2.39 The site with this reference number was described as 'Carnwath Road Riverside' and was the selected site.

6.2.40 The site is currently in three parts: Wiffin Wharf, Hurlingham Wharf and Carnwath Road Industrial Estate. The site sits within the London Borough of Hammersmith and Fulham.

6.2.41 Hurlingham Wharf is a safeguarded wharf.

- 6.2.42 The London Borough of Hammersmith and Fulham owns the freehold of the industrial estate; the long lease is held by the IBM Pension Fund and there are five businesses occupying eight units under a variety of lease terms, generally being managed to fall in to permit mixed use redevelopment of the site, it being within the South Fulham Riverside regeneration area.

Crown land and special land comments

- 6.2.43 At this site, we did not identify any Crown land interests or other special categories of land.

Property valuation comments

- 6.2.44 The value of acquiring the site was assessed as significant. It was also considered acceptable because the long-term impact on redevelopment would be limited.

Disturbance compensation comments

- 6.2.45 The businesses in the industrial estate on the site would need to be relocated. Depending on lease terms, the costs would likely be substantial but the extent of disruption was balanced against the redevelopment potential, which would require relocation of the businesses in any event.

Discretionary purchase comments

- 6.2.46 The site is adjacent to a substantial number of residential properties and we assessed a reasonable potential for discretionary purchase costs.
- 6.2.47 Our assessments relied on an assumption that the noisy, 24-hour works would be enclosed by an acoustic shed.

Off-site compensation comments

- 6.2.48 The site was assessed to hold low risk of off-site statutory compensation costs, primarily under s10, from businesses along Carnwath Road.
- 6.2.49 The site is adjacent to large numbers of residential properties with the potential for claims under the non-statutory compensation schemes.
- 6.2.50 Our assessments relied on an assumption that the noisy, 24-hour works would be enclosed by an acoustic shed.

Site conclusions

- 6.2.51 The prospect of acquisition by agreement in advance of compulsory acquisition was considered reasonable. Thames Water has acquired Wiffin Wharf and taken a lease of Hurlingham Wharf. Negotiations with IBM and the London Borough of Hammersmith and Fulham are also at an advanced stage.
- 6.2.52 There are high costs associated with this acquisition, disturbance to businesses will arise as a consequence, and the site sits within close proximity to many residential properties which may experience disruption, leading to the payment of compensation.

6.2.53 The site was assessed by the property team as less suitable.

Conclusions by property team

6.2.54 There was no existing Thames Water ownership that could have been relied upon for the Carnwath Road Riverside main shaft site. However, Thames Water has sought to negotiate the acquisition of this site ahead of compulsory acquisition to minimise the extent of the powers that will need to be used.

6.2.55 Two of the other shortlisted sites were only suitable as intermediate drive sites: not a drive strategy eventually adopted through the multi-disciplinary selection process.

6.2.56 Acquisition risk was greater with Barn Elms, it being Metropolitan Open Land and a site to which a number of key stakeholders were strongly opposed.

6.2.57 Carnwath Road Riverside is a site identified for regeneration over the medium to long term and the project will not prevent that from being achieved.

6.2.58 On-site mitigation should limit the potential for disturbance to nearby residential properties.

6.2.59 The alternatives to this site were explored and, in all cases, would require the use of compulsory acquisition to a greater extent than at the subject site.

7 Negotiations with the London Borough of Ealing

7.1 Submissions by Mark Davey

7.1.1 A summary was provided in relation to negotiations with the London Borough of Ealing on land to be acquired under the DCO from the London Borough of Ealing and discussions on purchase by agreement.

7.1.2 Thames Water has been in discussions with the London Borough of Ealing regarding acquiring land from the council. The London Borough of Ealing is in agreement that Thames Water can acquire the land from it and the intention is that this is done under the DCO.

7.1.3 The *Statement of Common Ground* (see ExA first written questions, Thames Water response, Ref: APP19, Folder 132, November 2013) corroborates the position of the borough.

7.1.4 Paragraph 3.11.18 confirms that the London Borough of Ealing has no objection in principle to its interests in land being acquired by the DCO.

7.1.5 Paragraph 3.11.20 does explain that the preferred approach to the acquisition of easements is by property agreement. However, Thames Water is not seeking to acquire easements.

8 Responses to issues raised at the hearing

8.1 Noise insulation and temporary rehousing

Issue raised

- 8.1.1 Review of policies and securing mechanisms, notably noise insulation and temporary rehousing.

Response

- 8.1.2 We have undertaken a comprehensive review of the compensation policies and are updating the documents to address comments from the ExA and other stakeholders. The revised policies will be proactive, placing the onus on the project to engage those who may qualify for the policies and agree compensation and/or mitigation such as noise insulation measures. The policies will include a requirement to develop 'trigger action plans', which will be used to proactively agree mitigation measures with those who may be significantly affected or who are considered special cases (schools, places of worship, etc). We are engaging with several sensitive receptors to agree trigger action plans ahead of the 12 February ExA submission deadline and will continue to agree trigger action plans following the deadline. We have also developed a plan for further engagement at each site and will be meeting with a number of stakeholders and members of the community to explain the policies and gain their feedback.
- 8.1.3 We are simplifying the policies to make them more user-friendly to the public. To further support this, we will establish an Independent Advisory Service (IAS) in the first quarter of 2014 which will be an independent organisation that provides advice to the public relating to the project's compensation policies.
- 8.1.4 A separate Independent Compensation Panel (ICP) will be established as soon as practicable to supervise the implementation of the policies and ensure the policies are effective and accessible. The ICP will also determine applications under the Exceptional Hardship Procedure and determine disputes arising out of the policies.
- 8.1.5 The policies will be secured through a Section 106 Unilateral Undertaking which will obligate the 'Undertaker' (Thames Water and the IP) to observe the policies. The s106 Unilateral Undertaking will establish the framework within which the policies will operate, and will include a clause which requires mitigation measures to be in place prior to commencing works that give rise to significant noise or vibration impacts that are to be mitigated further to the terms of the policies.

8.2 Conveyancing pack

Issue raised

- 8.2.1 Could we consider preparing a conveyancing pack that will cover the settlement deed, etc?

Response

- 8.2.2 We do not feel a conveyancing pack is required as with settlement information, as with all our compensation policies, this will be communicated proactively through the engagement work we are planning to undertake.

8.3 Article 34 in the Statement of Reasons

Issue raised

- 8.3.1 Can the applicant make it clearer in the *Statement of Reasons* to what extent Article 34 is limited to temporary use, both within and outside the areas the permanent acquisition?

Response

- 8.3.2 As indicated on various occasions during the compulsory acquisition hearings, there is no intention to extend powers of permanent acquisition over land which is listed in Schedule 14 (and referred to in Article 34 (1) (a) (i)) and this will be clarified in paragraph 5.3 of the *Statement of Reasons* in the submission of the updated version for 13 January.

8.4 Financial benefit

Issue raised

- 8.4.1 If Thames Water sells off land that it acquires which is then not required, can it profit from it or is any profit returned to the customer? What is the position where it is the IP who is carrying out the works?

Response

- 8.4.2 Thames Water can confirm that, in respect of the Thames Tideway Tunnel land purchases for the purpose of the construction and subsequent operation of the Thames Tideway Tunnel, in July 2013, Ofwat confirmed to Thames Water that the financial treatment of any disposal will be subject to the principle of 'no pain/no gain'.
- 8.4.3 As such, any post-tax profits derived from the disposal of land will be returned to the Thames Water customer. The position will remain unchanged where the IP is undertaking the works.

8.5 Carnwath Road Riverside

Issue raised

- 8.5.1 Carnwath Riverside – be clear that a compelling case has been made for the jetty. Is it possible for the PLA to show its support for the approach in light of condition of the river wall?

Response

- 8.5.2 We will provide more information when we respond to second written question Q23.2.

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