

The Planning Inspectorate
3/18 Eagle Wing
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2 The Square
Bristol
BS1 6PN

Date 20 January 2014
Your ref
Our ref COLLINST/292050-000005
Direct dial 0845 497 4787
stephencollings@eversheds.com

Dear Sir/Madam

**WRITTEN REPRESENTATION SUBMITTED ON BEHALF OF TRANSPORT FOR LONDON LIMITED
PLANNING INSPECTORATE REFERENCE NUMBER WW010001
UNIQUE REFERENCE NUMBER: 10018167
SECTIONS 127 & 138 PLANNING ACT 2008**

In accordance with Item 15 of Annex C (Timetable for Examination of the Application) of your Rule 8 letter dated 26 September 2013, we write to summarise Transport for London's (TfL) case put orally at the hearing held on 14 January 2014.

TfL's position on the acquisition, use or extinguishment of rights over railway property is set out in full in its written representation. TfL has been in discussion with Thames Water to identify the property interfaces between the project and TfL's structures and assets.

A. Section 127/138 Certificate

TfL does not object in principal to the acquisition of the requisite interests necessary to construct the project provided that the acquisition of land is regulated by an agreement and that protective provisions are inserted into the Order which preclude the compulsory purchase of land or rights over land without the consent of TfL. This is an essential safeguard and negotiations between TfL and Thames Water are continuing on Heads of Terms which would set out the required property dispositions.

In the meantime, and subject to Section B below, TfL is content for TWUL to seek certificates under section 127 and 138 provided that protective provisions are inserted into the Order in the form requested in TfL's written representation. On the basis that that is done TfL considers that the acquisition of agreed interests by Thames Water would not give rise to material detriment to TfL. However, this is dependent upon not only the acquisition of land being subject to agreed procedures but that the development of the land acquired is subject to operational protection through the protective provisions and an appropriate agreement regulating works.

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B. Submission of revised property information at hearings on January 14/15 2014

The attached two tables were presented to the Panel by Thames Water on 14 January. The tables set out the land in respect of which Thames Water is seeking certificates under s 127 and 138 of the Planning Act 2008. The schedule attached to the letter to DfT (attached) sets out the plot numbers related to each table and it is noted that additional numbers have been added to the s 127 table and the s 138 table in respect of TfL's interests.

The number of plots seems to differ slightly between the attached tables- so all of the attached plot numbers are being checked to see if any additional land is now subject to powers of the Order to acquire or otherwise extinguish rights.

TfL is considering this additional information and reserves the right to make further representations in the event that any of the interests identified in the tables result in different impacts from what has been discussed previously between TfL and Thames Water and further submissions may be made once that investigation has been concluded.

Yours faithfully



Eversheds LLP



Mr Martin Woods

Ref: 100-CO-PNC-DFTXX-000006

Head of Transport and Works Act Orders Unit
Department for Transport
Zone 1/18
Great Minster House
33 Horseferry Road
London SW1P 4DR

13 January 2014

Dear Mr Woods

APPLICATION FOR THE THAMES WATER UTILITIES LIMITED (THAMES TIDEWAY TUNNEL) DEVELOPMENT CONSENT ORDER

APPLICATION FOR CERTIFICATES AND CONSENT – SECTIONS 127 AND 138 OF THE PLANNING ACT 2008

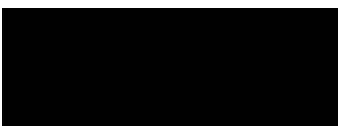
Further to our letter of 6 November 2013, we now enclose a revised schedule indicating further additional plot numbers. We have prepared the revised schedule due to additional information that we have received since our original application to you.

The revised schedule includes plots for the following organisations:

- Crossrail
- Docklands Light Railway
- London River Services
- London Underground Limited
- Network Rail
- Port of London Authority
- Transport for London

If you require any further information or have any queries in this regard, please do not hesitate to contact me.

Yours sincerely



Phil Stride
Head of Thames Tideway Tunnel

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Web: www.thamestidewaytunnel.co.uk

Registered in England and Wales No. 2366661
Registered office: Clearwater Court, Vastern Road
Reading, Berkshire, RG1 8DB

<u>s.127</u>	Port of London Authority	Network Rail Infrastructure Limited
Relevant SoS	Department for Transport	Department for Transport
City of London	1, 2, 7, 8, 9, 11, 12, 14, 15, 17, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 33, 35, 36, 38, 40, 41, 42, 43, 44, 45, 47, 49, 50, 51, 52, 53, 54, 55, 57, 59, <u>25</u> , 15a, 3a, 4a	42, 43, 53
City of Westminster	2, 3, 4, 6, 7, 8, 10, 12, 14, 18, 19, 23, 25, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 52	32
London Borough of Ealing		
London Borough of Hammersmith & Fulham	96, 97, 119, 120, 127, 159, 164, 170, 171, 172, 178, 179, 180, 127a	179
London Borough of Hounslow		
London Borough of Lambeth	1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 14, 15, 20, 22, 23, 24, 27, 28, 29, 33, 35, 37, 38, 55, 56, 11c, 33a	
London Borough of Lewisham	195, 197, 198, 199, 200, 201, 202	187, 190, 192, 199, 200
London Borough of Newham	7, 8, 9, 10, 11, 12, 18, 19, 22, <u>27</u>	15
London Borough of Richmond Upon Thames	1, 62, 83, 84, 87	
London Borough of Southwark	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 22, 24, 25, 27, 28, 29, 53, 54, 55, 243, 20a	4
London Borough of Tower Hamlets	<u>2</u> , 3, 4, 5, 6, 7, 8, 11, 12, 14, 16, 18, 20, 21, 22, 23, 24, 26, 27, 28, 29, 36, 37, 38, 39, 40, 41, 42, 46, 21a, 22a, 23a, 26a, 36a	
London Borough of Wandsworth	1, <u>69</u> , 73, 76, 80, 91, 3, 7, 8, 12, 17, 18, 24, 27, 41, 46, 48, 49, 50, 51, 52, 53, 54, 56, 60, 61, 66, <u>68</u> , 181, 224, 225, 229, 230, 231, 261, 263, 264, 266, 267, 297, 299, 303, 305, 306, 315, 317, 318, 325, 12a, 12b, 12c, 17a, 25b, 38a	<u>68</u> , 67, 69, 70, 72, 230
Royal Borough of Greenwich	5, 6, 7	8, 9, 10, 11, 12, 13, 18a
Royal Borough of Kensington & Chelsea	1, 3, 4, 22, 23, 24, 25	

Crossrail	Transport for London	Docklands Light Railway Limited	London River Services Limited
Department for Transport	Department for Transport	Department for Transport	Department for Transport
	10, 19, 20, 25, 33, 35, 36, 37, 48, 55, 19a, 19b, 19c, <u>22</u> , <u>24</u> , <u>26</u> , <u>27</u>		
	3, 7, 20		
	52, 53, 54, 55, 56, 57, 65, 50		
	68, 70, 71, 72, 73, 74, 178, 179, 180, 176		
	22, 23, 24, 56		
		16	
	6, 9		
	2, 5, 16, 17, 30, 71, 74, 75, 76, 77, 84, 85, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 103, 105, 107, 126, 127, 128, 129, 177, 178, 189, 190, 191, 194	84, 85, 86, 87, 88, 91, 177, 178	
	<u>14</u> , <u>12a</u> , <u>14a</u> , 120, 121, 122, 124, 148, 149, 150, 151, 152, 153, 159, 191, 192, 194, 196, 197, 198, 201, 202, 203, 206, 207, 209, 309, 311		<u>12a</u> , 14, 14a
		20, 36, 37, 39, 40, 41	
	22, 28, 33, 34, 35, <u>37</u> , 39, 42, 43, 44		

London Underground Limited
Department for Transport
15, 19, 23, 24, 30, 31, 54, 56
10, 29, 36, 37, 39, 41, 42, 43, 45
68, 70, 71, 72, 73, 74, 76
3, 4, 5, 6, 9, 10, 14
16
5, 7, 8, 68, 74, 75, 76, 79, 80, 81
5
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s.138	Port of London Authority Department for Transport	Network Rail Department for Transport	Crossrail Department for Transport	Transport for London Department for Transport	Docklands Light Railway Department for Transport	London River Services Department for Transport	London Underground Limited Department for Transport
Relevant SoS				15, 19, 23, 24, 25, 30, 31, 41, 42, 43, 44, 54, 56			
City of London				10, 29, 35, 36, 37, 38, 39, 40, 41, 42, 43, 46			
City of Westminster							
London Borough of Ealing							
London Borough of Hammersmith & Fulham				179, 180			
London Borough of Hounslow				70, 71, 72, 73, 74, 75, 76			
London Borough of Lambeth				1, 3, 9, 10, 11, 12, 14			
London Borough of Lewisham				164, 180, 181, 182, 187, 189, 190, 192, 198, 199			
London Borough of Newham				13, 15, 16, 17			
London Borough of Richmond Upon Thames							
London Borough of Southwark				3, 4, 5, 7, 8, 52, 53, 54, 68, 74, 75, 76, 79, 80, 81, 235			
London Borough of Tower Hamlets				4, 5, 6, 14, 15, 16, 17, 18, 30, 71, 71, 84, 85, 86, 87, 91, 95, 96, 98, 99, 100			
London Borough of Wandsworth				224			
Royal Borough of Greenwich				31, 51, 52, 66, 67, 68, 69, 70, 73, 229, 230, 231			
Royal Borough of Kensington & Chelsea				20, 36, 37, 39, 40, 41	14, 17, 20, 35, 36, 38, 39, 41, 43		
							1

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s.12Z	Port of London Authority Department for Transport	Network Rail Infrastructure Limited Department for Transport	Crossrail Department for Transport	Transport for London Department for Transport	Docklands Light Railway Limited Department for Transport	London River Services Limited Department for Transport	London Underground Limited Department for Transport
Relevant SoS	1, 2, 7, 8, 9, 11, 12, 14, 15, 17, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 33, 35, 36, 38, 40, 41, 42, 43, 44, 45, 47, 49, 50, 51, 52, 53, 54, 55, 57, 59, 25, 15a, 3a, 4a			10, 19, 20, 25, 33, 35, 36, 37, 48, 55, 19a, 19b, 19c, 22, 24, 26, 27			15, 19, 23, 24, 30, 31, 54, 56
City of London	2, 3, 4, 6, 7, 8, 10, 12, 14, 18, 19, 23, 25, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 52	32		3, 7, 20			10, 29, 36, 37, 39, 41, 42, 43, 45
City of Westminster London Borough of Ealing							
London Borough of Hammersmith & Fulham	96, 97, 119, 120, 127, 159, 164, 170, 171, 172, 178, 179, 180, 127a	179		52, 53, 54, 55, 56, 57, 65, 50			
London Borough of Hounslow				68, 70, 71, 72, 73, 74, 178, 179, 180, 176			68, 70, 71, 72, 73, 74, 76
London Borough of Lambeth	1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 14, 15, 20, 22, 23, 24, 27, 28, 29, 33, 35, 37, 38, 55, 56, 11c, 33a			22, 23, 24, 56			3, 4, 5, 6, 9, 10, 14
London Borough of Lewisham	195, 197, 198, 199, 200, 201, 202	187, 190, 192, 199, 200					
London Borough of Newham	7, 8, 9, 10, 11, 12, 18, 19, 22, 27	15		16			16
London Borough of Richmond Upon Thames	1, 62, 83, 84, 87						
London Borough of Southwark	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 22, 24, 25, 27, 28, 29, 53, 54, 55, 243, 20a	4		6, 9			5, 7, 8, 68, 74, 75, 76, 79, 80, 81
London Borough of Tower Hamlets	2, 3, 4, 5, 6, 7, 8, 11, 12, 14, 16, 18, 20, 21, 22, 23, 24, 26, 27, 28, 29, 36, 37, 38, 39, 40, 41, 42, 46, 21a, 22a, 23a, 26a, 36a			2, 5, 16, 17, 30, 71, 74, 75, 76, 77, 84, 85, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 103, 105, 107, 126, 127, 128, 129, 177, 178, 189, 190, 191, 194, 194, 12a, 14a, 120, 121, 122, 124, 148, 149, 150, 151, 152, 153, 159, 191, 192, 194, 196, 197, 198, 201, 202, 203, 206, 207, 209, 309, 311			
London Borough of Wandsworth	1, 69, 73, 76, 80, 91, 3, 7, 8, 12, 17, 18, 24, 27, 41, 45, 48, 49, 50, 51, 52, 53, 54, 56, 60, 61, 66, 181, 224, 225, 229, 230, 231, 261, 263, 264, 266, 267, 297, 299, 303, 305, 306, 315, 317, 318, 325, 12a, 12b, 12c, 17a, 25b, 38a						
Royal Borough of Greenwich	5, 6, 7	8, 9, 10, 11, 12, 13, 18a					
Royal Borough of Kensington & Chelsea	1, 3, 4, 22, 23, 24, 25			22, 28, 33, 34, 35, 39, 42, 43, 44			

- (b) must not be unreasonably withheld.
- (5) Any question arising under subsection (4) whether any requirement or refusal is reasonable is to be determined by the Secretary of State.
- (6) The question of which Secretary of State should make a determination under subsection (5) is to be determined by the Treasury, if it arises.
- (7) In this section and section 138 “statutory undertakers” means persons who are, or are deemed to be, statutory undertakers for the purposes of any provision of Part 11 of TCPA 1990.
- (8) In this section and section 138 the following terms have the meanings given in paragraph 1(1) of Schedule 17 to the Communications Act 2003 (c. 21) –
 - “electronic communications apparatus”;
 - “electronic communications code”;
 - “electronic communications code network”;
 - “operator”.

138 Extinguishment of rights, and removal of apparatus, of statutory undertakers etc.

- (1) This section applies if an order granting development consent authorises the acquisition of land (compulsorily or by agreement) and –
 - (a) there subsists over the land a relevant right, or
 - (b) there is on, under or over the land relevant apparatus.
- (2) “Relevant right” means a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, which –
 - (a) is vested in or belongs to statutory undertakers for the purpose of the carrying on of their undertaking, or
 - (b) is conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network.
- (3) “Relevant apparatus” means –
 - (a) apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or
 - (b) electronic communications apparatus kept installed for the purposes of an electronic communications code network.
- (4) The order may include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, only if –
 - (a) the decision-maker is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates, and
 - (b) in a case within subsection (5), the Secretary of State has consented to the inclusion of the provision.
- (5) A case is within this subsection if a representation has been made about the application for the order granting development consent before the completion of the examination of the application –
 - (a) in a case falling within subsection (2)(a) or (3)(a), by the statutory undertakers;
 - (b) in a case falling within subsection (2)(b) or (3)(b), by the operator of the electronic communications code network,

and the representation has not been withdrawn.

- (6) The question of which Secretary of State should give consent under subsection (4)(b) is to be determined by the Treasury, if it arises.

139 Common land and rights of common

- (1) An order granting development consent may not include provision the effect of which is to exclude or modify the application of a provision of or made under the Commons Act 2006, except in accordance with section 131 or 132.
- (2) For the purposes of section 38(6)(a) of the Commons Act 2006, works carried out under a power conferred by an order granting development consent are not to be taken to be carried out under a power conferred by or under an enactment, except in a case to which section 131 or 132 applies.
- (3) An order granting development consent may not authorise the suspension of, or extinguishment or interference with, registered rights of common, except in accordance with section 131 or 132.
- (4) “Registered rights of common” means rights of common registered under—
 - (a) the Commons Act 2006, or
 - (b) the Commons Registration Act 1965.

140 Operation of generating stations

An order granting development consent may include provision authorising the operation of a generating station only if the development to which the order relates is or includes the construction or extension of the generating station.

141 Keeping electric lines installed above ground

An order granting development consent may include provision authorising an electric line to be kept installed above ground only if the development to which the order relates is or includes the installation of the line above ground.

142 Use of underground gas storage facilities

An order granting development consent may include provision authorising the use of underground gas storage facilities only if the development to which the order relates is or includes development within section 17(2), (3) or (5).

143 Diversion of watercourses

- (1) An order granting development consent may include provision authorising the diversion of any part of a navigable watercourse only if the condition in subsection (2) is met.
- (2) The new length of watercourse must be navigable in a reasonably convenient manner by vessels of a kind that are accustomed to using the part of the watercourse which is to be diverted.
- (3) In deciding whether the condition in subsection (2) is met, the effect of any bridge or tunnel must be ignored if the construction of the bridge or tunnel is