



3D  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Customer Services: 0303 444 5000  
e-mail: [nienquiries@pins.gsi.gov.uk](mailto:nienquiries@pins.gsi.gov.uk)

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Mr Steve Wilkinson  
Asset Delivery Manager – Thames  
Water works  
Thames Water Utilities Ltd

Your Ref: 5147321-D382-BN-GEN-  
CORR-00272

Our Ref: WW010001

**By email**

Date: 15 November 2016

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Dear Mr Wilkinson,

## **Re application to make a non-material change to the Thames Water Utilities Ltd (Thames Tideway Tunnel) Order**

Thank you for providing us with the draft non material change (NMC) application documents which arrived by email on 3<sup>rd</sup> November 2016.

We are able to provide advice in accordance with the DCLG Guidance on Changes to Development Consent Orders (December 2015). This Guidance states that applicants should seek advice from the Planning Inspectorate about the type of post consent change application that is proposed to be applied for, and also advice about the application documentation and administrative steps that need to be provided for in advance of submission.

This letter sets out advice that adds to the advice given previously which is set out in a meeting note published on the National Infrastructure Planning website:

<https://infrastructure.planninginspectorate.gov.uk/projects/london/thames-tideway-tunnel/?ipcsection=advice&ipcadvise=b68a690a8a>

At the meeting on 10<sup>th</sup> August 2016 we advised on the administrative and procedural steps that needed to be undertaken in advance of making an application. The advice in this letter will therefore focus on the qualitative aspects of the draft application documents and issues of materiality. This advice does not concern the acceptability or otherwise of the proposed changes to the DCO.

### **Are the changes proposed non material?**

Paragraphs 12 to 16 of the DCLG Guidance sets out characteristics that indicate when a change to a development consent order is more likely to be treated as a material change. In summary, these are:

- If the change would require an updated Environmental Statement (from that at

the time the original Development Consent Order was made) to take account of new, or materially different, likely significant effects on the environment.

- A change that would invoke a need for a Habitats Regulations Assessment. Similarly, the need for a new or additional licence in respect of European Protected Species is also likely to be indicative of a material change.
- A change that would authorise the compulsory acquisition of any land, or an interest in or rights over land that was not authorised through the existing Development Consent Order.
- A change where the impact of the change on local people and businesses will be sufficient to indicate that the change should be considered as material.

The draft cover letter at paragraph 15 usefully sets out your assessment of materiality against these characteristics. We consider that this appraisal of the characteristics is reasonable based on the draft application documentation.

It is acknowledged that most of the works proposed at Beckton Sewage Treatment Works (STW) are sub-surface and contained within a developed industrial landscape setting. As such they will have very limited to no visual impact on the surrounding area. However, given the proximity of other employment uses and infrastructure such as the nearby retail unit, industrial estate, the A13 and the Beckton STW itself we would advise that the important issues that the Secretary of State is likely to consider when determining this application are:

- The impact that the proposed changes would have on traffic and transport during the construction stage, particularly on the surrounding primary and trunk road network, nearby residential streets and access to the nearby retail units.
- The impact of the proposed changes on the duration of the construction stage at Beckton STW.
- The impact of the proposed changes on nearby residential and employment occupiers in terms of air quality and odour.
- The impact of the proposed changes on nearby residential and employment occupiers (including structures at Beckton STW) in terms of noise and vibration during the construction stage.

The following comments on the draft application documents that you submitted for comment provide further information in relation to these issues. In particular, our comments on the draft Environmental Report identify additional information that we consider should be included.

### **The quality of the draft application documents**

The following draft applications were provided:

- 5147321-D382-BN-GEN-CORR-00272 Draft cover letter
- 5147321-D382-BN-GEN-REP-00270 Draft Order
- 5147321-D382-BN-GEN-REP-00271 Draft Explanatory Memorandum
- 5147321-D382-BN-ENV-REP-00122 Draft Environmental Report
- 5147321-D382-BN-GEN-REP-00269 Draft Consultation Statement
- 5147321-D382-BN-GEN-CORR-00274 Draft 6(2) Cover Letter
- 5147321-D382-BN-GEN-FRM-00273 Draft 6(2) Public Notice
- DCO-WP-000-ZZZZZ-010057 rev 2 Works plan and section Sheet 56
- DCO-WP-000-ZZZZZ-010058 – rev 1 Works plan and section Sheet 57
- DCO-WP-000-ZZZZZ-010059 – rev 2 Works plan and section Sheet 58
- DCO-WP-000-ZZZZZ-010060 – rev 2 Works plan and section Sheet 59
- DCO-PP-27X-BESTW- 280003 – rev 1 Site works parameter plan Section 28

In general terms, the draft application documents and plans explain the proposed changes at Beckton STW and provide a proportionate range of information that is consistent with Regulation 4 of The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 as amended, subject to the following comments.

### *The Draft Environmental Report*

The draft Environmental Report, in terms of its format and content, is generally fit for purpose; however, it should also address the following questions in order to provide the Secretary of State with the fullest information possible to make the decision.

The tunnel system itself provides storage for wastewater. With the changes in size and depth, is there any effect on the overall performance of the system in terms of storage capacity, storage duration or the ultimate spill frequency of the CSO at Beckton? Also, is there any change in the requirements for ventilation and air treatment compared with the baseline situation?

At the meeting on 10th August we were shown vibration contours that would change with depth of the tunnel. The original ES did not assess construction effects due to a lack of sensitive residential buildings, however, the overlying treatment facilities are essential infrastructure that could be impacted by a change in depth of tunnelling and an increase in vibration. The applicant should set out whether there is any potential for vibration damage to existing structures within Beckton STW and therefore a requirement for consequential works, which in itself could give rise to significant effects.

It would be useful for the public and Secretary of State to be provided with information about whether or not the proposed changes would impact on the duration and / or timing of the works at the Beckton Sewage Works site. Reference to the specific requirements for the Beckton Sewage Works site in the DCO and the Code of Construction Practice Parts A and B would assist in this regard.

### *The Draft Public Notice*

The notice contains all of the information required under Regulation 6; however, to improve clarity the description of the works in the second paragraph should be set out

in bullet point list form or in a table. The summary description of the proposed works and the different elements of it would not be easy for a member of the public to understand as currently presented.

Please delete the reference to "Planning Inspectorate website" and replace with "Thames Tideway Tunnel project page on the National Infrastructure Planning website".

Please amend the correspondence address for the Planning Inspectorate to: The Planning Inspectorate, Major Casework Directorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.

Please amend the email address to [thamestunnel@pins.gsi.gov.uk](mailto:thamestunnel@pins.gsi.gov.uk)

The last paragraph, which explains how to make representations, should be made more prominent, for example, in **bold**.

#### *Draft Consultation Statement*

The draft Statement provides a good written description of the consultation methodology; however, the addition of the map identified as Figure 1 in the Regulation 7 request, which shows the boundary of the consultation area, would enhance the public's understanding.

It may also assist the Secretary of State's and public's understanding if you were to append a schedule of prescribed bodies that were notified under s56(2)(a)(b)(c) when the application was accepted for examination. The schedule would identify the prescribed bodies that will and won't be consulted in relation to this application, with a short explanation setting out the reasons for the decision. Please see Appendix 6 of [this document](#) from the Progress Power NMC application, which is an example of what the above text is referring to.

The rationale for consulting with land owners and interests set out in the draft Statement at paragraphs 9 to 12 would negate the need to include those notified under s56(2)(d) in the appended schedule. This would also serve to keep the application documentation proportionate to the scale and nature of the proposed change. The Secretary of State may also find this useful for the purposes of responding to your Regulation 7(3) request.

Please amend Appendix B to remove reference to the Planning inspectorate. On this occasion we understand that the Secretary of state (DEFRA) will respond directly to your request not to consult certain prescribed bodies under regulation 7(3). This Appendix would be more appropriately titled "Written Consent by the Secretary of State under Regulation 7(3) of the infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011."

Once you have finalised your mailing list for consultation under Regulation 7, please provide us with an electronic copy of the list in Excel so we can use this to provide

notification of the decision under Regulation 8.

### *Draft Amending Order*

The 4<sup>th</sup> paragraph which sets down the powers being exercised by the SoS refers to s119 and paragraphs 1(4) and (8) of Sch 4. These provisions and powers relate to the Correction of Errors, which are time limited by s118 to the legal challenge period of the 2014 Order (6 weeks from publication). Please delete reference to s119 and Sch 4 because it's no longer possible to correct the Order under that provision. Reference to paragraph 2 of Schedule 6 will suffice.

Explanatory Note – please refer to “paragraph 2” of Schedule 6 to the Act, which refers to applications for a non material change, in order to provide consistency with the introductory text (as above). It would aid wider understanding if a very short description of the works was added to the Explanatory Note.

### *Draft Explanatory Memorandum (EM)*

This seems very heavy on detailed descriptions of the various works which just repeats the information set out in the Environmental Report and Cover Letter. It's not clear that the EM achieves the purpose for which it is intended and we would question the need to include an EM as part of the application documents.

If you decide to keep the EM as an application document, then it should be substantially revised from its current form. The EM should contain a plain English explanation of the purpose and intent of the powers being sought in the Amending Order. The EM should be made shorter with the emphasis on explaining each Article in the Amending Order.

Alternatively, if you decide not to include an EM as part of the application documents then you could rely instead on your Cover Letter with cross references to the description of the works in the Environmental Report.

Potentially, the most significant change to the 2014 DCO is the change to the limits of deviation proposed to the Outlet structure, referred to in paragraph 8 of the Cover Letter, paragraph 3.6 of the draft EM and paragraph 3.1.7 of the Environmental Report. In the Cover Letter, this change could be made more explicit by providing a plain English description of the implications in terms of the location of the proposed outlet structure in comparison with the consented location, in addition to the existing text about why the change is being sought and the benefits that could arise from it. Again, cross reference to the Environmental Report would assist the Secretary of State and public with understanding this part of the application.

### *Draft Plans*

The 5 draft Plans show the amended works at the Beckton STW and a key plan is provided; however, it would be useful for the Secretary of State and the public to see the new works transposed on top of the alignment of the consented works in order to better understand the significance of the change being applied for. This could be done

on each plan or, if that would be difficult in terms of presentation, on separate sheet(s). The addition of these plan(s) may also help you to articulate the changes proposed through cross referencing in the other application documents, particularly the Cover Letter and Environmental Report.

Please contact me if you have any questions or if the timing of your submission changes. Currently we are expecting you to submit the application week commencing 21<sup>st</sup> November.

Yours sincerely

*Mark Wilson*

**Mark Wilson**  
**Infrastructure Planning Lead**

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.