



Meeting Note

File reference	Thames Tunnel - WW010001
Status	FINAL
Author	Jeffrey Penfold

Meeting with	Thames Water Utilities Limited (TWUL)
Meeting date	7 November 2012
Attendees (Planning Inspectorate)	Mark Wilson (Principal Case Manager) Lynne Franklin (Lawyer) Jeffrey Penfold (Case Officer)
Attendees (non Planning Inspectorate)	Ian Fletcher (TWUL) Richard Fornelli (TWUL) Amar Qureshi (TWUL) Chris Marlow (TWUL) James Good (BLP) Jeff Meerdink (TWUL)
Location	Earl meeting Room, The Point, Paddington

Meeting purpose	A meeting to discuss project progress to date.
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Summary of key points discussed and advice given	<p>Attention is drawn to The Planning Inspectorate - National Infrastructure Directorate's openness policy and commitment to publishing any advice under s51 of the Planning Act 2008 (the 2008 Act) on The Inspectorate's website.</p> <p>Project update: The Growth & Infrastructure Bill (the Bill) is currently at Committee stage of the Parliamentary process. The Growth & Infrastructure Committee heard further evidence on the Bill on 20 November. Amongst other things, the Bill proposes to modify the Special Parliamentary Procedure in cases under the 2008 Act.</p> <p>TWUL raised concerns with regard to the process required when seeking to compulsorily acquire special land (principally, statutory undertakers' land, common land or open space) for which certification by the Secretary of State is either required under section 127, or obtainable under section 131 or 132 of the Act.</p> <p>TWUL queried what effect the Bill could have when</p>
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considering the certification process required under the 2008 Act? And what proposed transitional arrangements are in place?

The Planning Inspectorate confirmed that there are currently no updates on this matter. However, discussions are underway with the relevant Government departments.

The Planning Inspectorate advised TWUL to continue considering the general protections relating to special category land, regardless of what the Bill proposes.

The Planning Inspectorate suggested that the Statement of Reasons (which should seek to justify any compulsory acquisition sought) should pick up the main points relating to ss127, 131 and 132 of the 2008 Act – where applicable.

The developer highlighted that under the 2008 Act, 'replacement land' must be given in exchange for the common land or open space which a developer seeks to compulsorily acquire. The developer clarified that providing for replacement land may not be possible in all cases and given that the Bill seeks to amend this requirement, by removing the need to provide for replacement land; what does the Planning Inspectorate suggest is the best method to proceed with this in mind?

The Planning Inspectorate advised using the Statement of Reasons as a 'vehicle' to make the case (if and when the Bill is enacted) and to provide an overview of how the developer proposes to handle special land which falls under ss131 and 132 of the 2008 Act.

The Planning Inspectorate clarified that the Department for Transport and Department of Energy and Climate Change have delegated functions to examine applications under s127 of the 2008 Act to the Planning Inspectorate. Other Departments may have the same powers.

At present if a Secretary of State intends to issue a certificate under ss131 and 132 of the 2008 Act, then the public must be given an opportunity to make representations and if considered necessary may hold an inquiry. Discussions are underway between DEFRA and DCLG on how the Secretary of State's duties under ss131 and 132 of the 2008 Act might be met through

the examination.

Funding Statement:

The draft Funding Statement provided in advance of the meeting was discussed.

TWUL currently anticipate that the project will be constructed and maintained by an Infrastructure Provider (IP) specifically set-up for the purposes of delivering the project.

The developer advised that the details of the IP delivery model are currently being finalised.

The Infrastructure Provider will only be constituted once it is designated by the Secretary of State via a parliamentary grant. It is not yet clear what land interest the Infrastructure Provider will require. A transfer of land from the developer to the Infrastructure Provider may be required. The developer confirmed the position of the draft DCO which makes provision to transfer the benefit of the order an Infrastructure Provider; this is currently being finalised. Flexibility in the article that deals with the transfer of the benefit of the order is therefore required.

The Planning Inspectorate queried what interaction there would be between the Infrastructure Provider and the 5 year AMP period during the construction period? Will the normal period of 5 years apply?

The developer confirmed it is currently working with OFWAT to ensure the AMP period will be consistent with the construction phase of the project.

The Planning Inspectorate advised that the decision maker must be satisfied that there is sufficient funding available. The Planning Inspectorate advised the developer to look at other examples of funding statements.

Statements of Common Ground:

The developer intends to submit working draft Statements of Common Ground with the application to the Planning Inspectorate.

Folder design and electronic index:

Work is underway on the electronic index to accompany an application to the Planning Inspectorate who gave

advice on what is most practical.

Folder designs were discussed and agreed upon. Paper copies of the application will be distributed geographically throughout London at approximately 5 or 6 deposit locations.

Other consents:

The developer gave an overview of its proposed strategy in obtaining 'other' consents which fall outside of the 2008 Act remit. At the current time it is believed that a total of around 100 consents will be required across the project as a whole.

Discussions are being held between the Marine Management Organisation, the Environment Agency and Port of London Authority with regard to their respective jurisdiction over parts of the order land around or below the mean high water mark.

A meeting is anticipated between the MMO, EA and PLA to discuss current progress to date.

Draft DCO:

A draft Development Consent Order was issued to local planning authorities on 17 October. A response has been received from the London Borough of Hounslow; however, no comments were made. Other comments are anticipated as the deadline has not yet passed.

The mechanism for appealing an authority's refusal of details submitted pursuant to a requirement (or failure to take a decision on that application) was discussed. As proposed, an appeal would be determined by an inspector appointed by the Secretary of State whose power to decide an appeal would flow from the DCO

Any Other Business:

The Planning Inspectorate advised that its Advice Note Ten: *'Habitat Regulations Assessment relevant to nationally significant infrastructure projects'* has been substantially revised and includes new matrices.

The Planning Inspectorate made reference to the Environment Agency Annex of Advice Note Eleven: *'Working with public bodies on the infrastructure planning process'*

Specific decisions/ follow up required?	<ul style="list-style-type: none">• Comments to be given on the developer's draft electronic index.
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Circulation List	Meeting attendees.