



Meeting note

File reference

Status

Final

Author

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Date

18 March 2016

Meeting with

Transport for London (TfL)

Venue

Temple Quay House, Bristol

Attendees

Transport for London (TfL)

Neil Chester – Transport for London

Jason Saldanha – Transport for London

Duncan O'Connor – Pinsent Masons

Heidi Slater – Pinsent Masons

The Planning Inspectorate

Susannah Guest – Infrastructure Planning Lead

Robert Hanson – Lawyer

Jenny Colfer – EIA Advisor

Callan Burchell – Assistant Case Officer

Meeting

objectives

Project update meeting and Draft Documents Feedback for
Silvertown Tunnel

Circulation

All attendees

Summary of key points discussed and advice given

The developer was reminded of the Planning Inspectorate's openness policy that any advice given will be recorded and published on the planning portal website under s51 of the Planning Act 2008 (as amended by the Localism Act 2011) (PA 2008) and that any advice given does not constitute legal advice upon which the applicants (or others) can rely.

Introductions were made by everyone present, and individual roles were explained.

Progress Update

Transport for London (TfL), provided a project update on the Silvertown Tunnel scheme. TfL made the Inspectorate aware that they intended on outlining key features of the scheme during the meeting including, update on recent statutory consultation, the charging proposals, traffic modelling and design proposals.

Consultation

TfL updated The Inspectorate on its statutory consultation under the Planning Act 2008 (as amended). In summary, TfL's statutory consultation was held from 5 October – 29 November 2015 and consisted of a variety of consultation exercises including roadshows, consultation booklet and a digital media campaign. TfL indicated the common themes that had arisen from this consultation and provided a summary of number of responses per identified theme. TfL provided an explanation of how the responses would be considered and analysed in the Consultation Report.

Stakeholder Engagement

TfL made The Inspectorate aware that a variety of stakeholder engagement activities had taken place within the last few months. In summary, TfL explained that they had held host-borough workshops to provide knowledge of the Planning Act 2008 process (and the importance of key documents such as Statements of Common Ground) and to discuss the approach to charging, monitoring and mitigation.

The Inspectorate enquired about the current and proposed stakeholder engagement programme. TfL informed The Inspectorate that fortnightly meetings with host boroughs have been taking place since December 2015. The Inspectorate requested that the host borough contact information be shared with them prior to submission.

TfL informed The Inspectorate that they have had regular liaison with key stakeholders including Environment Agency, Marine Management Organisation, Natural England, Historic England, Port of London Authority and surrounding utility companies.

Landowners

TfL informed The Inspectorate that discussions had been progressing with affected parties and that draft heads of terms for agreements have been sent to affected parties.

TfL highlighted that there have been changes made to the scheme to mitigate impacts on land take and operational businesses as a result of the statutory consultation, stakeholder engagement and landowner discussions.

Traffic Modelling

TfL appointed Steer David Gleave to work with host boroughs to provide an independent validation of the strategic traffic model. Discussions are on-going to reach a conclusion as to whether the base (current) and reference (future without scheme) case models are fit for purpose.

TfL are undertaking discussions with the host boroughs regarding the development of a Statement of Common Ground (SoCG). The Inspectorate asked whether some SoCGs would be submitted alongside the application. TfL informed The Inspectorate that a number of SoCGs are yet to be agreed but it is TfL's intention that some SoCGs will be signed and submitted alongside the application.

The Inspectorate noted that SoCG can also outline areas of 'Uncommon Ground' between parties as well as providing an indication of steps proposed to achieve a resolution and provide an anticipated timeframe within which this might be achieved.

Design

TfL provided a brief overview of changes that had been made to the scheme as a result of the consultation.

TfL made The Inspectorate aware that a recent review of the illustrative design and design principles has been generally supported by the host boroughs. TfL informed The Inspectorate that further details of their approach to design and design assurance will be included in the Design and Access Statement.

Programme

TfL informed The Inspectorate that the application is likely to be submitted in late April 2016.

Charging, Monitoring, Mitigation.

TfL intend on applying for powers in the Development Consent Order to apply set charges to the existing Blackwell Tunnel and proposed Silvertown Tunnel.

TfL will submit the following documents that will set out in the charging, monitoring and mitigation for the Silvertown Tunnel scheme:

- Charging Policy which will set out the principles for setting the initial charges and making further variations to the use charges.
- Monitoring Strategy (MS) which will sets out how TfL will monitor effects of the Scheme.
- Traffic Impacts Mitigation Strategy (TIMS) which will set out the process for determining appropriate mitigation measures for traffic related impacts arising as a result of the Scheme.

The Inspectorate's s51 Advice

The Inspectorate requested progress updates on drafting of the DCO requirements, Deemed Marine Licence, and any Protective Provisions. The Inspectorate enquired whether draft versions of these documents/elements of the DCO could be shared with them at an appropriate time. TfL agreed. [Since writing this meeting note this action has been complete].

The Inspectorate asked a series of queries and questions in respect of the suite of Draft Documents. A log of the queries can be found in Appendix 1 to this note – see tables below.

The Inspectorate raised three matters that generated more discussion relating to the definition of the order limits; the clarity of the limits of deviation and the possible ambiguity between DCO Schedule 1 works and the Works Plans.

In respect of the Order Limits, the Inspectorate noted that no plan currently describes or defines the Blackwall Tunnel limits to which powers in the DCO would apply. Terms related to the Blackwall/Silvertown Tunnel, tunnel approaches, tunnel area are not defined on a plan. [Since writing this meeting note TfL have showed the Inspectorate how they will address this].

The Inspectorate noted the potential ambiguity in the approach taken to identifying the limits of deviation on the Works Plans. It appeared that the Works Plan Key identified the order limits as the limits of deviation but that separate limits of deviation are provided for some, but not all, works. The approach did not appear to have been explained or justified within the suite of documents reviewed. TfL noted the points and discussed ways in which the plans could be revised to provide more consistent information.

The Inspectorate highlighted that there were potential ambiguities between DCO Schedule 1 and the Works Plans, for example whilst DCO Schedule 1 refers to the tunnel-boring machine launch chambers these are not clear from the works plans. The Inspectorate noted that there was possible difficulty in understanding the nature of the work based on the draft works plans and Statement of Reasons provided. The draft documents provided did not appear to clearly specify what land was required for specific works. TfL noted this and considered that some signposting could usefully be added to appropriate documents.

Draft Consultation Report

The Inspectorate requested that TfL add clarification to statements within the Consultation Report. For example; TfL should indicate that no requests for hard copies of documents were considered unreasonable. The Inspectorate also made TfL aware of the importance in demonstrating how these requests were dealt with in the Table in Chapter 7. TfL agreed and noted to amend.

The Inspectorate noted that there were no comments included in the Consultation Report in respect of Stage 1 HRA. The Inspectorate requested for comments, particularly from Natural England, to be provided in the final Consultation Report or a clear cross-referenced to material in the Environmental Statement. TfL made The Inspectorate aware that all correspondence will be provided in the final Consultation Report/application documents.

The Inspectorate requested that copies of s46 notice, Scoping Opinion and letter to s42 'new consultees' were to be submitted in the final Consultation Report. TfL noted and agreed.

Follow up / specific decisions?

- TfL to provide the boroughs information to The Inspectorate.
- TfL to outline the upcoming timetable prior to submitting.
- TfL to provide draft heads of terms.
- The Inspectorate to provide TfL with venue criteria.

Appendix 1

Silvertown Draft Documents: Feedback Comments

DCO	Comment
DCO notes	Revokes enactments affect Blackwall & replaces with DCO operational provisions. Was this element included within the consultation material?
A2	Interpretation 'the Blackwall tunnel' 'approach' & 'area' to be defined on a plan?
A2	Check Explanatory Memorandum justification for definition of 'commence'
A2	Could the "Order limits" reasonably be interpreted to include land over which operations were being sought e.g. Blackwall Tunnel
A3a	Progress particularly in respect of Ex Mem para 6.8 re: protective provisions or other mechanism (in DCO?)
A3b-d	Clear evidence from Environment Agency to consent to disapply legislation? Include protective provisions at submission?
A5	A5 applies to all elements of authorised development – vertical deviation quite substantial, this could be explained in respect of the tunnel element but is it suitable to apply this to all authorised development?
A6	Should there be a reference to a Schedule to apply some geographical restrictions
A10	No geographic application or reference to Schedule; has Explanatory Memorandum provided sufficient justification for the approach? A10(6) timeframe agreed with local authorities?
A15	A15(6) check with authorities?
A38	Does the Explanatory Memorandum explain the justification for applying provisions to Blackwall Tunnel in advance of Silvertown?
A39	What are current provisions for maintenance at Blackwall Tunnel? Refer to definition of maintain? In respect of 5(2) does that relate to the ability of others to maintain elements of the authorised development (A8 street authority)?
A40	Will the notice be retrospective, is that appropriate?
A41	What powers already exist in respect of the operation and use of the Blackwall Tunnel?
A42	Creates offence but PA2008 paragraph 32B of Schedule 5 created if enforcing a byelaw; does Explanatory Memorandum usefully explain this?
A44	Tunnel approaches to be delineated on a certified plan? Is A44(7) a level of detail too far, level of charge or reasonable expense is not set out under other provisions (statutory undertakers) and what would be the mechanism for changing or increasing said charge if included in a DCO?
A46(4)	Is this appropriate? Wording in Explanatory Memorandum does not match relevant sections of A46 and indicates timing application not stated in Article and contrary to A38.
	Procedure to discharge requirements?

DCO	Comment
Schedule 1	
Wk 1 a, e & f	Reference to tunnel-boring machine launch chambers but these are not shown on Works Plans (only illustrative on General Arrangement Plans).
Wk 1	Why is limit of deviation so large after southern portal entrance?
Wk 2 a & e	What does improvement mean in respect of A102, central reservation and NMU route?
Wk 2 f	What is a new cross-over facility?
Wk 3 b	Where is this and does it join with boundary of another Work (8)?
Wk 5 d & 6 c	Duplicates Work 1(d)
Wk 11 e	Duplicates Work 2(h)
Wk 12 d	Element in respect of new means of access to gasholder structure not shown on Works Plan (not within non-linear Work boundary)?
Ancillary dvt	Very broad and limited justification as to why in Explanatory Memorandum. 3(a) demolition

	of any building? Terms need defining (cycleways/tracks)
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Ex mem	Comment
Section 11	Seek discussion on status of requirements and discussions undertaken with local authorities and other discharging bodies. To note, the Secretary of State for Transport does not like tailpieces
Para 10.9	Seek discussion on status of MMO discussions and details in Deemed Marine Licence

Works Plans	Comment
Key	Lack of clarity about definition of Order Limits and Limits of Deviation as well as clarity about the relationship of individual works and individual limits of deviation
1 of 3	Is note 3 satisfactory as a catch all or should it be updated with specific provisions?
1 of 3	No non-linear temporary works but assume areas north of Millennium Way and to the right of Work 1 is temp construction compound?
3 of 3	Work 15(j) possibly missing from Works Plan?
All Works Plans	Work 1(e) and (f) not included on Works Plans but Work 1(a) and (b) defined by reference to them but not shown?

Statement of Reasons	Comment
2.1.5	Where are the locations of the two construction compounds? Why is tone so uncertain if included within DCO Works 20
4.1.1	Nature of works plans makes it difficult to establish, from a plan, what land is required for what work
4.2.1	Unclear whether plan should reflect powers over Blackwall, or plan to define A2 of DCO?
6.6.13	Query assumption that fact of s35 Direction can be extrapolated to conclude that the benefits in the public interest will be national significance
7.2.2	Statement re: TfL under a duty to acquire land at best value and ... required to deliver the scheme within a specified time frame – under what provisions?
8.2.6	Need for and terms of any protective provisions <u>prior to the close of the examination</u> ? Advice Note 15, if not agreed submit as minimum standard protective provision of the relevant party with the amendments that the applicant is seeking to it. Submitting blank schedules is not acceptable.
8.3.5	The relevant utility diversions proposed to be included within specific numbered works but works are generic and relevant utility diversions not listed under each relevant work. Clarification of intended approach?
Chpr 10	Query assumptions drawn from s35 direction in terms Government policy and support
11.1.12	How progressed are considerations in respect of whether parts of River Thames foreshore are open space?

Book of Reference	Comment
Para 5	“Development Consent Order boundary”. Terminology not commonly used. Repeated throughout.
Para 10	How defining DCO boundary and does this include extent of Blackwall Tunnel area?
BoR	It can be helpful to include additional column (column 2) to identify DCO article to which plot relates (i.e. land/rights, temp/perm).

Consultation Report	Comment
CR 2	Figure 2-2 – perhaps out of place and too early in chapter as terms and timeline not well

	explained. MTS – in full. The lines are confusing, easier to understand dates and flow from tabular form later in chapter? Relevance of Emirates line constructed not explained at this point. Potential to retain Chapter 2 as an introduction and structure to the Consultation Report and make a new Chapter 3 to focus on history?
CR 5	Indication of what differences between Sche 1 of APFP and list in appendix; separate or included check against differences with PINS Reg 9 list?
CR 5	Include letter to ‘new’ s42 consultees (Feb 2016) in Appendix
CR 6	Table at end and comments by Newham re: readiness of supporting technical reports and TfL's response. Response by Newham for Newham or on behalf of residents?
CR 7	No mention of point in SoCC of writing to number of additional stakeholders
CR 8	Para 8.1.9 copy of the s46 notification to SoS in appendix
CR 8	Reference to ‘free of charge on reasonable request’ and include a statement in accordance with PINS’ previous advice.
CR 9	Useful include copies of correspondence from Natural England re: Stage 1 HRA for completeness

Observations for example typos, incorrect cross-references.

Draft Development Consent Order

DCO	Comment
A2	Inclusion of SoS in A2 unnecessary
A18	Full name of Article 26 includes reference to airspace
A58	Wording relates to construction, maintenance or operation but Explanatory Memorandum only refers to construction

Explanatory Memorandum

Ex mem	Comment
Para 2.1	Consistency of terminology of description of scheme
Para 8.13	Incorrect reference to contents of A46(2). Para 8.14 is not reflected in DCO drafting. Application to Blackwall from date Order comes into force different from A38 re: commence construction
Para 10.6	Only refers to construction whilst A58 refers to construction, maintenance or operation

Statement of Reasons

SoR	Comment
2.1.2	“dual two-lane connection” – consistent terminology
3.4.7	Wording of A30 states open for ‘public’ use
3.5.1.8	Compare wording of ‘any tree or shrub <i>near</i> the project’ with A19 ‘within or overhanging Order Limits’
4.4.1	“safeguarded” Thames Wharf – how does that safeguarding relate to para 4.3.1
5.2.5	Typo refer to Appendix A
8.2.9	Typo in para 8.2.9 replace “above mentioned” with “below”

Book of Reference

BoR	Comment
Plot 03-37b	Plot 03-37b described differently in Part 3 and Part 5
Plot 01-045a	Plot 01-045a not on plan
Plot 01-045	Plot 01-045 on Sheet 1 of 7 twice

Consultation Report

Consultation	Comment
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Report	
CR 2	Scheme definition – 2.1.1 also includes user charging for Blackwall
CR 2	Para 2.2.10 second bullet Applicants must 'also', they prepare the SoCC to explain 'how'
CR 2	CR 2 – Figure 2-3 consistency in terminology re: issues and themes
CR 2	Check cross-referencing: para 2.3.3 Appendix A & B previously identified as Compliance and S35 direction
CR 3	List of abbreviations – Private Hire Vehicles PHV
CR 4	Para 4.1.15 clarity that one round of statutory consultation is s42, 47 and s48
CR 6	Suggest common title: undertaking statutory consultation: Section 47
CR 7	Issue with para 7.2.6 first bullet
CR 7	Cross-reference to digital in para 7.4.13 and press release and roadshows – incorrect
CR 7	Timing of publishing Consultation Report – at submission
CR 8	Suggest common title: undertaking Section 48 publicity
CR 9	Possibly include copy of Scoping Opinion for completeness