

SCHEDULES

SCHEDULE 2

Article 4

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1. In this Part of this Schedule—

“the biodiversity action plan and mitigation strategy” means the biodiversity action plan and mitigation strategy contained in appendix 9.H of the environmental statement;

“the bus strategy” means the document of that description set out in Schedule 14 (documents to be certified) certified by the Secretary of State as the bus strategy for the purposes of this Order;

“the code of construction practice” means the document of that description set out in Schedule 14 certified by the Secretary of State as the code of construction practice for the purposes of this Order and which sets a framework to control impacts arising from construction of the authorised development;

“the design principles” means the document of that description set out in Schedule 14 certified by the Secretary of State as the design principles for the purposes of this Order and which set out the principles for the detailed design of the authorised development;

“the flood risk assessment” means the revised flood risk assessment contained in substituted appendix 16.A of the environmental statement;

“the landscaping plan” means the plan of that description set out in Schedule 14 certified by the Secretary of State as the landscaping plan for the purposes of this Order and which set out the proposed landscaping to be implemented as part of the authorised development;

“the Silvertown Tunnel Design Review Panel” means the panel set up and administered by Urban Design London to provide design assurance throughout the detailed design process for the authorised development, whose terms of reference are attached to the design principles; and

“the Silvertown Tunnel Stakeholder Design Consultation Group” means the group set up and administered by TfL to provide stakeholders with an opportunity to comment on the external appearance of the above ground elements of the authorised development throughout the detailed design process for the authorised development, whose terms of reference are attached to the design principles.

Time limit for commencement of the authorised development

2. The authorised development must commence within 5 years of the date on which this Order comes into force.

Status: This is the original version (as it was originally made).

Design principles and design review panel

- 3.—(1) The authorised development must be designed and implemented—
 - (a) in accordance with the design principles; and
 - (b) in general accordance with the general arrangement plans.
- (2) TfL must consult with—
 - (a) the Silvertown Tunnel Design Review Panel; and
 - (b) the Silvertown Tunnel Stakeholder Design Consultation Group,

during the detailed design of the authorised development and in the manner provided for by the design principles and have regard to the responses received.

Detailed design of above ground buildings and structures

4.—(1) Construction of each part of the authorised development specified in column (1) of the table below must not commence until the details of the elements specified in relation to that part in column (2) of that table have been submitted to and approved in writing by the relevant planning authority.

<i>(1)</i> <i>Part of the authorised development</i>	<i>(2)</i> <i>Elements to be approved</i>
Work No. 1(d)	External appearance
Work No. 5(a)	External appearance of the retaining wall
Work No. 6(a)	External appearance of the retaining wall
Work No. 10(b)	External appearance of the retaining wall
Work No. 11(b)	Siting, design and external appearance
Work No. 11(c)	Siting, design and external appearance
Work No. 12(a)	Siting, design and external appearance
Work No. 12(c)	Siting, design and external appearance of the operational parking facilities
Work No. 12(e)	Siting, design and external appearance
Work No. 13	Siting, design and external appearance
Work No. 15(c)	External appearance of the retaining walls
Work No. 15(d)	External appearance
Work No. 17(a)	Siting, design and external appearance
Work No. 17(c)	Siting, design and external appearance of the operational parking facilities
Work No. 17(e)	Siting, design and external appearance
Work No.18(d)	External appearance of the retaining wall
Any above ground permanent work constructed as ancillary or related development under paragraph(c) (i) – (xii) of Schedule 1 which constitutes a	External appearance

<p>(1)</p> <p><i>Part of the authorised development</i></p> <p>viaduct, bridge, retaining wall or wing wall, or under paragraph (c)(xiii) of Schedule 1 which constitutes a permanent above ground building or structure, and ordinarily would not benefit from planning permission granted under article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015(1), unless otherwise agreed in writing between the relevant planning authority and TfL.</p>	<p>(2)</p> <p><i>Elements to be approved</i></p>
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(2) The authorised development must be carried out in accordance with details approved by the relevant planning authority under sub-paragraph (1).

Code of construction practice and related plans and strategies

5.—(1) The authorised development must be carried out in accordance with the code of construction practice.

(2) No part of the authorised development may be commenced until the following plans and strategies, required by the code of construction practice, have been prepared for that part of the authorised development—

- (a) Construction Site River Strategy: to be prepared in consultation with the relevant planning authority and the PLA;
- (b) Emergency Plan: to be prepared in consultation with the local emergency services and the relevant planning authority;
- (c) Fire Plan: to be prepared in consultation with the London Fire and Emergency Planning Authority;
- (d) Lighting Management Plan: to be prepared in consultation with the relevant planning authority, the PLA and the Environment Agency; and
- (e) Site Waste Management Plan: to be prepared in consultation with the relevant planning authority and the Environment Agency.

(3) No part of the authorised development may be commenced until the following plans and strategies, required by the code of construction practice, have been prepared for that part of the authorised development and approved by the relevant planning authority, the Environment Agency or the PLA (as the case may be)—

- (a) Air Quality Management Plan: to be approved by the relevant planning authority including in the London Borough of Newham, such scheme of ventilation at the Hoola building as necessary to reduce the exposure of first floor residential accommodation to nitrogen oxide to acceptable levels;
- (b) Archaeological Written Scheme of Investigation: to be prepared in consultation with Historic England and, in respect of any elements within the river Thames, the PLA and the MMO, and approved by the relevant planning authority;
- (c) Community Engagement Plan: to be approved by the relevant planning authority;
- (d) Construction Materials Management Plan incorporating commitments to river transport: to be approved by the relevant planning authority;

(1) [S.I. 2015/596](#).

Status: This is the original version (as it was originally made).

- (e) Construction Traffic Management Plan: to be approved by the relevant planning authority, in consultation with the relevant highway authority;
 - (f) Ecology Management Plan: to be prepared in consultation with Natural England and approved by the relevant planning authority;
 - (g) Flood Warning and Evacuation Plan (which forms part of the Emergency Plan to be prepared under sub-paragraph (2)(b)): to be approved by the relevant planning authority, in consultation with the Environment Agency;
 - (h) Groundwater Monitoring and Verification Plan: to be approved by the Environment Agency;
 - (i) Noise and Vibration Management Plan: to be approved by the relevant planning authority;
 - (j) Passage Plan: to be approved by the PLA; and
 - (k) Construction Environmental Management Plan: to be approved in consultation with the relevant planning authority and the PLA
- (4) The relevant highway authority for the purposes of sub-paragraph (3)(e) is each highway authority for the highways affected by the Construction Traffic Management Plan.
- (5) The authorised development must be carried out in accordance with the plans and strategies prepared or approved under sub-paragraphs (2) and (3).
- (6) TfL must make the plans and strategies prepared or approved under sub-paragraphs (2) and (3) available in an electronic form suitable for inspection by members of the public until the authorised development has been opened for public use.

Landscaping scheme

- 6.—(1) No part of the authorised development may commence until a written landscaping scheme for that part has been submitted to and approved in writing by the relevant planning authority.
- (2) A landscaping scheme prepared under sub-paragraph (1) must be in accordance with the landscaping plan and include details of hard and soft landscaping works, including—
- (a) location, number, species, size and planting density of any proposed planting, including habitat creation in lieu of offsite biodiversity offsetting;
 - (b) cultivation, importing of materials and other operations to ensure plant establishment;
 - (c) the location and specification of routes for non-motorised users including provision of a bus stop to serve southbound buses in the re-aligned Tunnel avenue;
 - (d) proposed finished ground levels;
 - (e) hard surfacing materials;
 - (f) details of existing trees to be retained, with measures for their protection during the construction period; and
 - (g) implementation timetables for all landscaping works.
- (3) Each part of the authorised development must be carried out in accordance with the relevant landscaping schemes approved under sub-paragraph (1).
- (4) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.
- (5) Any tree or shrub planted as part of a landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted.

Monitoring and mitigation strategy

7.—(1) The provisions of this requirement must be carried out in accordance with the monitoring and mitigation strategy and TfL must otherwise comply with the obligations set out in that document.

(2) If the statutory powers vested in TfL in relation to highways and road traffic in Greater London are not sufficient to enable TfL to implement any mitigation measure which it is obliged to implement under this requirement, TfL must either—

- (a) seek to agree with the council of the relevant London borough that TfL may implement that measure on behalf of the council; or
- (b) if such an agreement cannot be reached, pay to that council a sum equivalent to—
 - (i) the estimated cost of the council implementing that measure, which the council must use for that purpose; or
 - (ii) the costs reasonably incurred by the council in implementing an alternative measure in the same location which the council determines will mitigate the adverse impact attributable to the authorised development,

whichever is less.

(3) In this paragraph, “relevant air quality authority” means the council of a London Borough for an area in relation to which the expert review carried out under sub-paragraph (14) concludes that the authorised development has materially worsened air quality.

Pre-opening traffic measures

(4) Before the Silvertown Tunnel opens for public use TfL must carry out an updated assessment of the likely impacts of the authorised development on the performance of the highway network and must consult the members of STIG on a proposed scheme of mitigation which identifies—

- (a) the locations on the highway network where the assessment demonstrates there is likely to be a material worsening of traffic conditions as a result of the operation of the authorised development;
- (b) the measures which TfL proposes to mitigate the impacts of such a worsening of traffic conditions; and
- (c) the proposed programme for implementation of those measures.

(5) TfL must have regard to any consultation responses received from STIG members and before finalising the scheme of mitigation must liaise further with the council of any London Borough on the detail of mitigation measures which it proposes to implement on roads in that Borough. TfL must then submit the scheme of mitigation to the Secretary of State for approval.

- (6) The scheme of mitigation submitted to the Secretary of State for approval must include—
 - (a) details and locations of the proposed mitigation measures;
 - (b) responses to the consultation and further liaison carried out under sub-paragraphs (4) and (5);
 - (c) the estimated cost of implementing each measure; and
 - (d) the proposed programme for the implementation of those measures.

(7) The Silvertown Tunnel must not open for public use until the scheme of mitigation has been approved by the Secretary of State. If the Secretary of State proposes to approve the scheme of mitigation with material modifications, the Secretary of State must consult the members of STIG on the proposed modifications and have regard to any responses received when deciding whether to approve the scheme.

(8) TfL must implement or secure the implementation of the measures approved by the Secretary of State in accordance with the approved programme.

Status: This is the original version (as it was originally made).

(9) The Secretary of State may, with the consent of the Mayor of London, delegate their functions under this paragraph to the Mayor of London.

Post-opening monitoring and mitigation

- (10) For the duration of the monitoring period, TfL must—
- (a) implement a monitoring programme in consultation with the members of STIG;
 - (b) prepare—
 - (i) quarterly monitoring reports for a period of one year from the Silvertown Tunnel opening for public use; and
 - (ii) annual monitoring reports thereafter,derived from that monitoring, and submit them for consideration by the members of STIG;
 - (c) identify in consultation with the members of STIG appropriate thresholds for changes on the highway network which require TfL to investigate whether mitigation measures are necessary;
 - (d) develop in consultation with the relevant highway authority any measures which are necessary to mitigate adverse impacts on the highway network which are attributable to the operation of the authorised development; and
 - (e) implement or secure the implementation of the necessary mitigation measures.

(11) In sub-paragraph (10) “the monitoring period” means a period commencing not less than three years before the Silvertown Tunnel is expected to open for public use and continuing for not less than three years after the Silvertown Tunnel opens for public use.

Air quality monitoring and mitigation

(12) Not less than three years before the Silvertown Tunnel is expected to open for public use TfL must install Nitrogen Dioxide (“NO₂”) monitors at locations determined in accordance with paragraph 3.7.4 of the monitoring and mitigation strategy.

(13) The NO₂ monitors must remain in place for the period specified in paragraph 3.7.5 of the monitoring and mitigation strategy.

(14) The monitoring data within each annual monitoring report referred to in sub-paragraph (10) must be reviewed as soon as reasonably practicable by a firm of independent air quality experts appointed by TfL in consultation with the members of STIG. The annual review undertaken by the firm of experts must determine in accordance with the criteria set out in the monitoring and mitigation strategy whether or not there has been a material worsening of air quality as a result of the authorised development beyond the likely impacts reported within the environmental statement at locations where there are (whether as a result of the authorised development or otherwise) exceedances of national air quality objectives.

(15) If the review demonstrates in the opinion of the appointed firm of experts that the authorised development has materially worsened air quality in the manner described in sub-paragraph (14), TfL must—

- (a) within three months of the conclusion of the expert review consult any relevant air quality authority on a preliminary scheme of mitigation including a programme for its implementation; and
- (b) following that consultation submit a detailed scheme of mitigation to the Mayor of London for approval.

(16) Before considering whether to approve the scheme of mitigation, the Mayor of London must consult any relevant air quality authority and take into consideration any responses received.

(17) TfL must implement or secure the implementation of the scheme of mitigation approved by the Mayor of London in accordance with the programme contained in the approved scheme of mitigation.

Surface water drainage details

8.—(1) No part of the authorised development which comprises any part of a surface water drainage system must commence until written details of that surface water drainage system have been submitted to and approved by the relevant planning authority.

(2) The surface water drainage system for the relevant part of the authorised development must be constructed in accordance with the details approved under sub-paragraph (1).

External lighting details

9.—(1) No part of the authorised development is to be opened for public use until written details of any external lighting to be installed in connection with the operation of any building or other structure forming part of the authorised development have been submitted to and approved by the relevant planning authority.

(2) Each part of the authorised development must be carried out in accordance with the relevant details of the external lighting approved under sub-paragraph (1).

Signage strategy

10.—(1) No part of the authorised development is to be opened for public use until a strategy for any highway signage to be installed on that part has been submitted to and approved by the relevant highway authority.

(2) The relevant highway authority for the purposes of sub-paragraph (1) is, in each case, the highway authority for the highway in relation to which the highway signage is to be installed.

(3) Each part of the authorised development must be carried out in accordance with the relevant strategy approved under sub-paragraph (1).

Flood risk assessment

11. The authorised development must be carried out in accordance with the flood risk assessment.

Operational noise mitigation measures

12.—(1) No part of the authorised development may open for public use until a written scheme of proposed noise mitigation measures in respect of the use and operation of that part has been submitted to and approved in writing by the relevant planning authority following consultation with the relevant highway authority.

(2) The proposed measures submitted for approval under sub-paragraph (1) must provide—

- (a) details of the noise barriers proposed;
- (b) that any highway constructed or resurfaced as part of the authorised development will be surfaced with low noise surfacing to a TSCS standard or better, with the exception of the sections of highway within the Silvertown Tunnel and on the Silvertown Tunnel approaches where retaining walls of 1.8 metres or higher are located on either side of the carriageway, together with any other sections of highway which are recommended by a road safety audit to have an alternative surface; and
- (c) details of the proposals for the retention and maintenance of the proposed noise mitigation measures.

Status: This is the original version (as it was originally made).

(3) The approved noise mitigation measures must be implemented prior to the opening of the relevant part of the authorised development for public use and must be retained and maintained in accordance with the approved scheme.

(4) The relevant highway authority for the purposes of sub-paragraph (1) is, in each case, the highway authority for the highway in relation to which the noise mitigation is to be installed.

(5) The written details referred to in sub-paragraph (1) must either reflect the mitigation measures included in the environmental statement or, where the mitigation proposed materially differs from the mitigation identified in the environmental statement, TfL must provide evidence with the written details submitted that with the mitigation proposed, the authorised development would not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement taking into account the mitigation identified in it.

(6) In this paragraph “TSCS” means thin surface course systems as defined by clause 942 of the Manual of Contract Documents for Highway Works, Volume 1 Specification for Highway Works.

Siebert Road and Westcombe Hill area noise barriers

13. Prior to the opening of the authorised development for public use, TfL must install noise barriers to protect properties in the Siebert Road, Invicta Road/Westcombe Hill area from the effects of traffic noise from the A102. Details of these barriers must be submitted to and approved by the local planning authority after consultation with local residents, before installation is commenced. The installation must be undertaken in the form approved.

Cross-river bus services

14.—(1) TfL must secure a cross-river bus service provision using the tunnels which delivers the same or greater levels of public transport benefits (as quantified in the pre-Scheme Refreshed Case modelling) as those identified in the Assessed Case, as set out in the environmental statement, without any reduction in any other user benefits generated by the scheme and in any event the provision of not less than 20 buses per hour during peak periods in each direction through the tunnels for the duration of the monitoring period and thereafter must keep under review and secure the provision of bus services through the tunnels in accordance with the bus strategy and the objectives set out in that document.

(2) TfL must provide funding for concessionary bus travel to residents of the London Boroughs of Newham and Tower Hamlets and the Royal Borough of Greenwich in accordance with the bus strategy after the Silvertown Tunnel opens for public use.

(3) TfL must ensure that any bus ordinarily using the Silvertown Tunnel as part of a London local service must comply with the Euro VI emissions limits or with equivalent emissions standards.

(4) In this paragraph—

“bus” means a public service vehicle designed and constructed for the carriage of both seated and standing passengers;

“Euro VI emissions limits” means the emissions limits for heavy duty vehicles set out in Annex I to Regulation (EC) No 595/2009 of the European Parliament and of the Council (as amended by Annex XV of Commission Regulation (EU) No 582/2011);

“London local service” means a London local service which TfL has determined as being required under section 181 of the 1999 Act; and

“the monitoring period” means a period of not less than three years commencing on the date the Silvertown Tunnel opens for public use, which may be extended by TfL for up to two years if this is deemed necessary following consultation with the members of STIG in accordance with section 3.4 of the monitoring and mitigation strategy.

Cross-river cycle/pedestrian facilities

15.—(1) TfL must secure the provision of enhanced river crossing facilities for cyclists and pedestrians between the Greenwich Peninsula and Canary Wharf and Silvertown for at least the duration of the monitoring period, whether by bus shuttles, ferry services and/or modified charging policy on the Air Line service.

(2) Details of such provisions must be submitted to and approved by the relevant local planning authorities prior to the opening of the authorised development for public use, and such scheme or schemes as may be approved must be retained for no less than the monitoring period unless agreed otherwise by the relevant local planning authorities.

Biodiversity action plan and mitigation strategy

16. The authorised development must be carried out in accordance with the biodiversity action plan and mitigation strategy.

Contaminated land

17.—(1) No part of the authorised development may commence until a site investigation and risk assessment has been carried out to assess the nature and extent of contamination within any land on which intrusive groundworks in connection with that part of the authorised development are to be carried out.

(2) The site investigation and risk assessment carried out under sub-paragraph (1) must be—

(a) based on the preliminary risk assessment of contaminant sources, pathways and receptors contained in the environmental statement;

(b) carried out in accordance with the Department for Environment, Food and Rural Affairs' and the Environment Agency's "Model Procedures for the Management of Land Contamination" Contaminated Land Report 11 document, and must include—

(i) a survey of the nature, extent and scale of contamination within the relevant area;

(ii) an assessment of the potential risks to human health, property and other relevant receptors; and

(iii) an appraisal of remediation options and proposal of the preferred option where the site investigation and risk assessment indicates that remediation is required as a result of the proposed intrusive groundworks in order for the relevant area of land not to meet the definition of "contaminated land" under Part 2A (contaminated land) of the Environmental Protection Act 1990(2); and

(c) supplied to the relevant planning authority as soon as reasonably practicable following its completion.

(3) Where the site investigation and risk assessment carried out under sub-paragraph (1) contains an appraisal of remediation options and proposal of the preferred option as required by sub-paragraph (2)(b)(iii), a remediation strategy must be submitted to and approved in writing by the relevant planning authority which must include—

(a) remediation measures required as a result of the proposed intrusive groundworks to ensure that the site will not meet the definition of "contaminated land" under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land following remediation; and

(2) 1990 c. 43. Part 2A was inserted by section 57 of the Environment Act 1995 (c. 25). The definition of "contaminated land" was subsequently amended by section 86(1) and (2)(a) of the Water Act 2003 (c. 37).

(b) a verification plan, providing details of the data to be collected in order to demonstrate that the works set out in the remediation scheme submitted for approval under this sub-paragraph are complete.

(4) The remediation strategy approved under sub-paragraph (3) must be implemented as part of the authorised development.

(5) Following the implementation of the remediation strategy approved under sub-paragraph (3), a verification report, based on the data collected as part of the remediation strategy and demonstrating the completion of the remediation measures must be produced and supplied to the relevant planning authority.

(6) Where the verification report produced under sub-paragraph (5) does not demonstrate the completion of the remediation measures, a statement as to how any outstanding remediation measures will be addressed must be supplied to the relevant planning authority at the same time as the verification report.

(7) The outstanding remediation measures must be completed to the reasonable satisfaction of the relevant planning authority by the date agreed with that authority.

Hazardous substances – East Greenwich Gasholder site

18.—(1) The Silvertown Tunnel must not open for public use and the tunnel services buildings at the South Portal comprised in Work No. 12 must not be occupied after their practical completion until the hazardous substances consent for the East Greenwich Gasholder Station site has been revoked or modified in accordance with the Planning (Hazardous Substances) Act 1990(3), and in the case of a modification details of the relevant modifications have been submitted to the Health and Safety Executive, and the Health and Safety Executive has advised TfL in writing that it does not advise against the authorised development.

Hazardous substances – Brenntag Chemicals site

19.—(1) The Silvertown Tunnel must not open for public use until the hazardous substances consent for the Brenntag Inorganic Chemicals Ltd site has been revoked or modified in accordance with the Planning (Hazardous Substances) Act 1990, and in the case of a modification details of the relevant modifications have been submitted to the Health and Safety Executive, and the Health and Safety Executive has advised the Secretary of State in writing that it does not advise against the authorised development.

Re-use of excavated material on-site

20. The works to implement the authorised development must be undertaken in a manner that will maximise the potential for re-use of suitable excavated material on site for the subsequent re-use of areas that will be subject to temporary possession. Prior to the commencement of development, details of the storage of suitable excavated material and of its subsequent re-use within or adjoining the Order limits must be submitted to and approved by the relevant local planning authority. The construction must be carried out as approved.

Local business transitional support

21. Prior to the opening of the authorised development for public use TfL must make all reasonable endeavours to agree a business transitional support package with the councils of the London Borough of Newham, the London Borough of Tower Hamlets and the Royal Borough of

(3) 1990 c. 10.

Greenwich. As part of this business transitional support package TfL must make available to those councils the sum of one million pounds for the purpose of supporting local businesses.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Interpretation

- 22.** In this Part of this Schedule, “discharging authority” means—
- (a) any body responsible for giving any consent, agreement or approval required by a requirement included in Part 1 of this Schedule, or for giving any consent, agreement or approval further to any document referred to in any such requirement; or
 - (b) the local authority in the exercise of its functions set out in sections 60 (control of noise of construction sites) and 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974⁽⁴⁾.

Applications made under requirements

23.—(1) Where TfL proposes to make an application to a discharging authority for any consent, agreement or approval required by a requirement contained in Part 1 of this Schedule, no later than 28 days prior to submitting the application TfL must provide a draft of the proposed application to the discharging authority, unless otherwise agreed by the discharging authority.

(2) At the same time as submitting a draft of a proposed application to the Council of the London Borough of Newham under sub-paragraph (1) in respect of—

- (a) any consent, agreement or approval required by paragraph 5(3) of Part 1 of this Schedule; or
- (b) any consent, agreement or approval required further to any document referred to in any such requirement,

TfL must consult the Council of the London Borough of Tower Hamlets about the draft of the proposed application and when finalising the contents of the application TfL must take into account any comments made by the Council of the London Borough of Tower Hamlets during that consultation.

(3) An application to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 1 of this Schedule must be accompanied by a statement summarising how TfL considers it has complied with the obligations applicable to the requirement set out in Part 1 of this Schedule.

(4) Where an application has been made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 1 of this Schedule, or for any consent, agreement or approval further to any document referred to in any such requirement, the discharging authority must give notice to TfL of its decision on the application within a period of 8 weeks beginning with—

- (a) the day immediately following that on which the application is received by the discharging authority; or

(4) 1974 c. 40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c. 55), Schedule 15 to the Environmental Protection Act 1990 (c. 43) and Schedule 24 to the Environment Act 1995 (c. 25). There are other amendments to section 61 but none are relevant.

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(b) where further information is requested under paragraph 24, the day immediately following that on which the further information has been supplied by TfL, or such longer period as may be agreed in writing by TfL and the discharging authority.

(5) Where an application has been made to the Council of the London Borough of Newham in respect of—

- (a) any consent, agreement or approval required by paragraph 5(3) of Part 1 of this Schedule; or
- (b) any consent, agreement or approval required further to any document referred to in any such requirement,

the Council of the London Borough of Newham must not give notice to TfL of its decision until the Council of the London Borough of Newham has consulted the Council of the London Borough of Tower Hamlets in respect of that application for a period of not less than 21 days, and considered any representations made by the Council of the London Borough of Tower Hamlets on the application received within that time.

(6) In determining any application made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 1 of this Schedule, the discharging authority may—

- (a) give or refuse its consent, agreement or approval; or
- (b) give its consent, agreement or approval subject to reasonable conditions,

and where consent, agreement or approval is refused or granted subject to conditions the discharging authority must provide its reasons for that decision with the notice of the decision.

Further information regarding requirements

24.—(1) In relation to any application referred to in paragraph 23, the discharging authority may request such further information from TfL as it considers necessary to enable it to consider the application.

(2) If the discharging authority considers that further information is necessary and the requirement concerned contained in Part 1 of this Schedule does not specify that consultation with a consultee is required, the discharging authority must, within 10 business days of receipt of the application, notify TfL in writing specifying the further information required.

(3) If the requirement concerned contained in Part 1 of this Schedule specifies that consultation with a consultee is required, the discharging authority must issue the application to the consultee within five business days of receipt of the application, and notify TfL in writing specifying any further information requested by the consultee within five business days of receipt of such a request.

(4) If the discharging authority does not give the notification within the period specified in sub-paragraph (2) or (3) it (and the consultee, as the case may be) is deemed to have sufficient information to consider the application and is not entitled to request further information without the prior agreement of TfL.

Appeals

25.—(1) Where a person (“the applicant”) makes an application to a discharging authority, the applicant may appeal to the Secretary of State in the event that—

- (a) the discharging authority refuses an application for any consent, agreement or approval required by—
 - (i) a requirement contained in Part 1 of this Schedule; or
 - (ii) a document referred to in any requirement contained in Part 1 of this Schedule;

- (b) the discharging authority does not determine such an application within the time period set out in paragraph 23(4)23(1), or grants it subject to conditions;
 - (c) the discharging authority issues a notice further to sections 60 (control of noise of construction sites) or 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974;
 - (d) on receipt of a request for further information pursuant to paragraph 24 of this Part of this Schedule, the applicant considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
 - (e) on receipt of any further information requested, the discharging authority notifies the applicant that the information provided is inadequate and requests additional information which the applicant considers is not necessary for consideration of the application.
- (2) The appeal process is as follows—
- (a) any appeal by the applicant must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) the expiry of the time period set out in paragraph 23(4), giving rise to the appeal referred to in sub-paragraph (1);
 - (b) the applicant must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the discharging authority and any consultee specified under the relevant requirement contained in Part 1 of this Schedule;
 - (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to consider the appeal (“the appointed person”) and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the attention of the appointed person should be sent;
 - (d) the discharging authority and any consultee (if applicable) must submit their written representations together with any other representations to the appointed person in respect of the appeal within 10 business days of the start date specified by the appointed person and must ensure that copies of their written representations and any other representations as sent to the appointed person are sent to each other and to the applicant on the day on which they are submitted to the appointed person;
 - (e) the appeal parties must make any counter-submissions to the appointed person within 10 business days of receipt of written representations pursuant to paragraph (c); and
 - (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable after the end of the 10 day period for counter-submissions under paragraph (e).
- (3) The appointment of the appointed person pursuant to sub-paragraph (2)(c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.
- (4) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.
- (5) Any further information required pursuant to sub-paragraph (4) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person. The appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within 10 business days of the date specified by the appointed person but must otherwise be in accordance with the process and time limits set out in sub-paragraphs (2)(c)(e).

Status: This is the original version (as it was originally made).

- (6) On an appeal under this paragraph, the appointed person may—
- (a) allow or dismiss the appeal; or
 - (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(7) The appointed person may proceed to a decision on an appeal taking into account such written representations as have been sent within the relevant time limits and in the sole discretion of the appointed person such written representations as have been sent outside of the relevant time limits.

(8) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(9) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for a judicial review.

(10) If an approval is given by the appointed person pursuant to this Part of this Schedule, it is deemed to be an approval for the purpose of Part 1 of this Schedule as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.

(11) Save where a direction is given pursuant to sub-paragraph (12) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person are to be met by the applicant.

(12) On application by the discharging authority or the applicant, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to relevant guidance on the Planning Practice Guidance website or any official circular or guidance which may from time to time replace it.