Examining Authority’s Second Written Round of Questions and Requests for Information

Response from Thames Water

S106 Summary and Explanatory Note in Relation to Securing Noise Mitigation and Compensation Policies

Doc Ref: APP74.1
THAMES WATER UTILITIES LIMITED

THAMES TIDEWAY TUNNEL

SECTION 106 AGREEMENTS WITH LOCAL BOROUGHS/GREATER LONDON AUTHORITY

NOTE PROVIDING UPDATE TO THE SECTION 106 AGREEMENTS

1 INTRODUCTION

1.1 Further to the submissions made to the Inspectorate on 4 November 2013, Thames Water is continuing to negotiate section 106 Agreements with the relevant London Boroughs for planning obligations associated with the construction and operation of the Thames Tideway Tunnel and all associated development (the “Development”). The current drafts for each Borough (which are based on the draft heads of terms provided on 4 November 2013 and further discussions with the Boroughs) are included with this submission and should be read in conjunction with this note, which provides as status update.

2 STATUS OF THE SECTION 106 AGREEMENTS

2.1 The following table sets out the current status of the draft agreements as at 3 January 2014, and the attached drafts are those as most recently submitted to the relevant London Borough. Discussions are continuing to take place and a Thames Water intends to provide a further update at the upcoming DCO hearings.

2.2 In relation to the draft deeds prepared for the City of London Corporation, London Borough of Tower Hamlets and Westminster City Council, since Thames Water has no interests in land within these boroughs, a separate legal agreement and confirmatory section 106 Agreement has been prepared whereby Thames Water agrees to enter into the 106 agreement once the DCO has been made by the Secretary of State. Drafts of the legal agreements and confirmatory 106 agreements are included in this submission.

Financial information has been redacted from the draft Agreements at the request of the local authorities.

<table>
<thead>
<tr>
<th>LPA / LONDON BOROUGH</th>
<th>RELEVANT DEVELOPMENT SITES</th>
<th>STATUS (as of 3 January 2014)</th>
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<tr>
<td>LPA / LONDON BOROUGH</td>
<td>RELEVANT DEVELOPMENT SITES</td>
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<tr>
<td>Southwark</td>
<td>Chambers Wharf</td>
<td>The Council produced a draft deed for review which was received by Thames Water on 01.11.2013. A number of meetings have since taken place with the Council, and Thames Water revised the boilerplate sections of the draft deed and sent these to the Council on 10.12.2013 and a summary position paper on the obligations being proposed by Southwark (sent on 9.10.2013). Thames Water has revised the draft deed further to take account of the position paper and this draft was sent to the Council on 03.01.2014.</td>
</tr>
<tr>
<td>Lewisham</td>
<td>Earl PS (B) and Deptford Church Street</td>
<td>First full draft deed prepared and sent to Council on 20.11.2013, with updated draft sent to the Council on 31.12.2013.</td>
</tr>
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3 January 2014
THAMES WATER UTILITIES LIMITED

THAMES TIDeway TUNNEL

SECTION 106 AGREEMENTS/UNDERTAKINGS WITH LOCAL BOROUGHS

NOTE EXPLAINING THE APPROACH TO SECURING THE NON-STATUTORY MITIGATION AND COMPENSATION POLICIES

1 INTRODUCTION

1.1 As part of the Statement of Reasons (document reference 4.1) which formed part of the application for the construction and operation of the Thames Tideway Tunnel and all associated development (the "Development"), Thames Water provided the following policies:

(a) The Noise Insulation and Temporary Re-Housing Policy (Schedule 2 of the Statement of Reasons);
(b) Exceptional Hardship Procedure (Appendix 1 of the Statement of Reasons);
(c) Non-statutory Mitigation Compensation Procedure (Appendix 2 of the Statement of Reasons);
(d) Non-statutory Disturbance Compensation Procedure (Appendix 3 of the Statement of Reasons); and
(e) Settlement Information Paper (Appendix 4 of the Statement of Reasons).

1.2 Thames Water is consolidating and updating the policies and papers listed above into the following:

(a) Settlement Information Paper;
(b) Exceptional Hardship Procedure; and
(c) Non-Statutory Off-Site Mitigation and Compensation Policy;

to be collectively referred to as the "Offsite Mitigation and Compensation Policies". These are submitted separately as part of the 13 January 2014 submissions.

1.3 Thames Water proposes to secure its commitment to implement the measures contained in the Offsite Mitigation and Compensation Policies and to ensure that the 14 London Boroughs (by which Thames Water also refer to the City of London Corporation and the City of Westminster) and the London Legacy Development Corporation are able to enforce compliance with the associated obligations through a two-part agreement as described below and annexed to this note.

2 SECURING THE OBLIGATIONS

2.1 Thames Water is committed to establishing an Independent Compensation Panel (the "ICP") to supervise the implementation of the Offsite Mitigation and Compensation Policies and to determine applications arising from them. The ICP is to be supported by an Expert Advice Panel ("EAP"). Thames Water will also establish an Independent Advisory Service (the "IAS") to provide advice and
support to local residents and groups about how they may be eligible to benefit from the measures available under the Offsite Mitigation and Compensation Policies.

2.2 Thames Water will seek to establish these three services as soon as reasonably practicable, and proposes to enter into a contractual agreement with the Boroughs by 12 February 2014 whereby it commits to setting up the three services (the "Original Agreement").

2.3 Since the agreement will be provided in advance of the making of the DCO, and since Thames Water does not currently have interests in land in all of the development Boroughs, it is not possible to secure these commitments as planning obligations (pursuant to section 106 of the 1990 Act). Thames Water therefore proposed a contractual agreement, but subject to the following:

(a) The agreement will include a commitment to enter into a confirmatory section 106 undertaking (the "Confirmatory Undertaking") given to all Boroughs confirming the obligations under the Original Agreement are section 106 planning obligations; and

(b) Where any Boroughs are not signatories to the Original Agreement, Thames Water commits to complying with the obligations in those Boroughs as if the Borough had been a signatory and accepts that all the Boroughs may enforce the terms of the Original Agreement. This will also be secured by the project wide requirement (see paragraph 2.6 below).

2.4 The Confirmatory Undertaking will include additional obligations relating to the compliance, operation and financial support of the Offsite Mitigation and Compensation Policies. Details of these are contained in the draft deeds annexed, and is discussed in the responses to questions 25.6 and 25.7.

2.5 The obligations contained with the Confirmatory Undertaking will be planning obligations for the purposes of section 106 of the 1990, and will be binding on Thames Water (and its successors) and on the Thames Water’s qualifying interest in the DCO Land. The amendment to Schedule 19 paragraph 10 of the draft DCO which states;

“For the purposes only of Section 106 (1) of [the Town and Country Planning Act 1990] the undertaker shall be deemed to be a person interested in the Order Land and any part of it and for the avoidance of doubt Section 106 930 (a) shall include any transferee under Article 9 of this Order.”

2.6 Thames Water further proposes to include a requirement in the DCO at PW16 stating “No authorised development shall be commenced unless and until the undertaker has entered into the Off-site Non-statutory Mitigation and Compensation Policies Section 106 Undertaking”.

Berwin Leighton Paisner LLP

8 January 2014
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