



# Department for Transport

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12 November 2014

Dear Sirs,

## **TRANSPORT AND WORKS ACT 1992: APPLICATION FOR THE PROPOSED LONDON UNDERGROUND (NORTHERN LINE EXTENSION) ORDER**

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to say that consideration has been given to the report of the Inspector, J S Nixon BSc (Hons) DipTE CEng MICE MRTPI MCIHT, who held a public local inquiry between 19 November and 20 December 2013 into the application made by your clients Transport for London ("TfL") for:

- a) the London Underground (Northern Line Extension) Order ("the Order") to be made under sections 1, 3 and 5 of the Transport and Works Act 1992 ("TWA"); and
- b) a direction as to deemed planning permission for the development provided for in the Order, to be issued under section 90(2A) of the Town and Country Planning Act 1990 ("the planning direction").

2. The Order, if made, would authorise London Underground Limited ("LUL") to construct and operate a 3.2 kilometre extension of the Charing Cross Branch of the Northern Line from Kennington to a new station at the site of the disused Battersea Power Station, with an intermediate station at Nine Elms. The scheme (referred to in this letter as "the NLE") includes permanent ventilation shafts and head-houses at Kennington Park and Kennington Green and four new cross-passages at Kennington station. The Order would also authorise the compulsory acquisition and temporary use of land for the purposes of the NLE.

3. Enclosed with this letter is a copy of the Inspector's report. His conclusions and recommendations are set out in sections 8, 9 and 10 of the report.

## Summary of Inspector's recommendations

4. The Inspector recommended that the Order be made with modifications (including those sought by TfL in August 2013 to remove certain works from the scheme) and that the planning direction be given subject to conditions.

## Summary of Secretary of State's decision

5. For the reasons given in this letter, **the Secretary of State has decided to make the Order, with modifications and to give the planning direction, subject to the conditions set out in Annex 1 to this letter.** In separate letters being issued today, the Secretary of State for Communities and Local Government has decided to give the various listed building and conservation area consents and the open space certificate required for implementation of the NLE referred to at paragraphs 1.5-7 of the Inspector's report.

## Secretary of State's consideration

6. Careful consideration has been given to all the arguments put forward by, or on behalf of, the parties. The Secretary of State's consideration of the Inspector's report is set out in the following paragraphs. All paragraph references, unless otherwise stated, are to the Inspector's report ("IR"). Where not stated in this letter, the Secretary of State can be taken to agree with the Inspector's conclusions as set out in his report.

## The need for the NLE and the anticipated benefits

7. The Secretary of State notes that the justification for the NLE is derived not solely from the existing transport needs of the area but is essentially development led. He notes in particular that almost all of the funding of the NLE would come from the substantial new development proposed in the Vauxhall, Nine Elms and Battersea Opportunity Area ("VNEB OA") and that many of the new homes and jobs in the VNEB OA are directly dependent on construction of the NLE. In the light of this, he agrees with the Inspector that the opportunity to sustainably regenerate the VNEB OA creates an irresistible need for the NLE (IR 8.6-10).

8. The Secretary of State agrees with the Inspector's assessment at IR 8.11-24 of the benefits that would result from the NLE in terms of improving transport accessibility by connecting the VNEB OA to the London Underground network; by acting as a fundamental catalyst for regeneration of the VNEB OA; by increasing the supply of housing; and by generating 25,000 jobs in the service, retail and construction sectors. He agrees with the Inspector's overall conclusion that the cumulative benefits of the NLE provide a compelling justification for the scheme and notes that this is underpinned by the high cost benefit ratio of nearly 10:1 (IR 8.25).

## Main alternative options considered

9. While acknowledging the criticism of the consultation process by many objectors and the Inspector's view that it could have been more focussed in the early stages, the Secretary of State agrees with the Inspector that the inquiry allowed a full review of the events leading up to the Order application and offered the opportunity for all interests to air their different views (IR 8.27-35, 8.62, 8.175-178, 9.2-3). With regard to the choice of mode,

alignment and other components of the NLE scheme, he is like the Inspector satisfied that the main alternative options were considered by TfL, and that the reasons for choosing the proposals comprised in the NLE scheme are justified (IR 8.62). In particular, he agrees with the Inspector that the decision to adopt the underground approach to serve the transport needs of the VNEB OA was right (IR 8.36-40, 9.4); that the reasons for extending the Northern Line from Kennington rather than the Victoria Line from Vauxhall are compelling (IR 8.43-49, 9.5-7); and that it was appropriate not to include the upgrade of Kennington Station in the scheme, taking into account the significant cost and intrusive nature of the works involved and the consequent delay to the NLE if that option were now pursued (IR 8.57-61, 9.10).

### **Consistency with national, Mayoral and local policies**

10. The Secretary of State agrees with the Inspector that, with the exception of heritage impacts referred to at paragraphs 21 and 22 below, the delivery of the NLE scheme would accord with relevant national, regional and local policies and with the strategic policies embodied within them (IR 8.63-65). In particular, he notes the support for the NLE in the National Infrastructure Plan, the London Plan 2011 and a range of local planning policies in the London Boroughs of Wandsworth, Lambeth and Southwark, which recognise the key role of the NLE in regenerating the VNEB OA (IR 3.60-65).

### **Main impacts of the NLE on residents, businesses and the environment**

#### Noise and vibration

11. The Secretary of State has considered the Inspector's assessment at IR 8.66-93 of the likely noise and vibration impacts of the NLE during construction and operation. He agrees with the Inspector's conclusion that, taking into account the controls under condition 13 in Annex 1 to this letter, the noise levels that would be experienced from the operation of trains on the NLE would be below the "No Observed Effect Level" and therefore acceptable; and that there should be no observed effect in terms of vibration (IR 8.79, 9.15). The Secretary of State has considered the request from an objector in a post-inquiry representation that TfL should be required to respond to complaints about NLE train noise within a specified timescale, but considers that this is a performance management issue for TfL which cannot appropriately be provided for in a planning condition.

12. With regard to the use of the worksites, the construction of the ventilation shafts and head-houses, additional road traffic and the construction of the tunnels, the Secretary of State accepts that the temporary impacts would be intrusive for some people, even with the employment of Best Practicable Means ("BPM"), and would be a moderate negative factor to be weighed in the overall balance. However, he agrees with the Inspector that, taking into account the controls that would be in place such as the Code of Construction Practice ("CoCP") and the proposed planning conditions, the residual impacts would be acceptable (IR 8.94, 9.13-14).

#### Impacts on properties from ground movements

13. The Secretary of State notes the Inspector's conclusion that no property should experience an impact from ground movement that would threaten damage to its structure (IR 8.95). He is, like the Inspector, satisfied that the "Settlement Deed" offered by TfL and

the framework set out in the CoCP should provide adequate assurance in this regard (IR 8.95-99, 9.13).

#### Townscape and visual amenity

14. The Secretary of State agrees with the Inspector that, aside from the impacts for Kennington Green and Kennington Park considered at paragraphs 19, 21 and 22 below, the townscape and visual amenity impacts suffered during construction would be temporary, but following the opening of the NLE they should all be favourable (IR 8.100-105).

#### Impacts on land use including commercial properties and businesses

15. The Secretary of State agrees with the Inspector that, with the exception of the displacement of Bee Urban referred to at paragraph 19 below, implementation of the NLE should have a beneficial effect overall on the local businesses and the economy in terms of the new residential property and the jobs generated by new offices which would result. He agrees further that access to existing businesses should not be unduly affected by construction of the NLE and that, while the impact of changed travel patterns might be negative for a few businesses, the public benefit arising from the scheme would be far greater (IR 8.109-114).

#### Impacts of construction traffic on the highway network

16. The Secretary of State has considered the Inspector's assessment at IR 8.118-130 of the impacts of construction traffic on the highway network and other road users. He is satisfied that taking into account the proposed use of the River Thames to take excavated materials away from construction sites and the other mitigation measures including the preparation of a Traffic Management Plan for each worksite, there would be no traffic consequences that would justify refusing the Order. He agrees further with the Inspector that condition 18 in Annex 1 to this letter, which would require the introduction of yellow box marking at the junction of Kennington Park Road and Kennington Park Place, is appropriate (IR 8.131).

#### **Effects of the proposed ventilation shafts, head-houses and worksites at Kennington Park and Kennington Green**

17. The Secretary of State recognises that many objections to the NLE have been made by residents and businesses around Kennington Park and Kennington Green who consider that the area would experience most of the scheme's adverse effects and few of its transport benefits (IR 8.3-4, 9.8). He notes that the Inspector has given detailed consideration in his report to the impacts of the scheme in those areas.

#### Kennington Park

18. The Secretary of State agrees with the Inspector that the arguments for alternative locations for the ventilation shaft and head-house are not compelling and that consequently the choice of the associated worksite location is the best option (IR 8.134-142). He agrees also that the access to the worksite proposed by TfL is to be preferred to that advanced by the objectors, for the reasons given by the Inspector (IR 8.143-151). With regard to noise,

he has noted the Inspector's assessment that, taking into account the use of BPM and the controls that would apply through the Construction Noise and Vibration Mitigation Scheme, noise levels should be below the "Significant Observed Adverse Effect" level. He agrees that in the context of a scheme of this magnitude such temporary effects would be acceptable (IR 8.152-158)

19. The Secretary of State agrees with the Inspector that the contemporary design of the head-house, which is supported by English Heritage and the London Borough of Lambeth ("LBL") is acceptable in principle and would preserve the character and appearance of the conservation area and the listed properties in Kennington Park Place and St Agnes Place (IR 8.159-163, 9.17). As regards the displacement of Bee Urban, he notes that this would happen in any event with the disposal of the Old Lodge by LBL and that TfL has made money available to facilitate Bee Urban's move, which may help to secure its future (IR 8.166-168, 9.18).

20. The Secretary of State agrees with the Inspector that, while some disturbance and inconvenience to those who live and work around the Park is inevitable during construction of the NLE, none of the adverse impacts would be so significant as to interrupt life unduly. He is satisfied also that reinstatement proposals would be the best that could be achieved and that the uses of the Park would be equivalently reinstated (IR 8.171-172).

### Kennington Green

21. The Secretary of State has considered the Inspector's detailed comparison at IR 8.179-213 of the relative merits of the Kennington Green site and the alternative site at 373 Kennington Road ("the 373 option") advanced by many objectors. He agrees with the Inspector that in many respects the merits of the two options are finely balanced in terms of their impacts on business, residents, built heritage and traffic. He accepts, however, that the loss of trees at Kennington Green for the purposes of the scheme would have a seriously negative effect on the character and appearance of the conservation area and the setting of the surrounding listed buildings; and that this would be only partially offset by the modest enhancement offered by the new head-house and, in the very long-term, by the restoration proposals (IR 8.200, 215).

22. The Secretary of State considers that the adverse impact of TfL's proposals at Kennington Green on heritage and the townscape will need to be weighed in the overall balance. As regards the comparison with the 373 option, he agrees with the Inspector that, in spite of any deficiencies in the evolution of the NLE proposals and the criticism by objectors of the approach to consultation by TfL and Treasury Holdings, the uncertainties, delay and cost implications of pursuing the 373 option tip the balance in favour the Kennington Green site (IR 8.216-217, 9.12, 9.19).

### **Effects on statutory undertakers and utility providers**

23. The Secretary of State notes that the only outstanding objections from statutory undertakers at the end of the inquiry were those from Scotia Gas Networks and Southern Gas Networks (IR 8.219). He was informed by TfL on 15 October 2014 that an agreement between those companies and TfL had been signed by both sides but not completed pending resolution of a disagreement over the amount of solicitor's fees to be paid by TfL. The Secretary of State considers that, although these objections have not been withdrawn,

taking into account the advanced stage of the negotiations with TfL, it is unnecessary for him to await resolution of the issue of fees before he decides this application. He notes also that comprehensive protective provisions for gas undertakers are included in the Order as recommended by the Inspector.

### **Impacts of the NLE on passengers using Kennington station**

24. The Secretary of State has considered the Inspector's assessment at IR 8.8.220-247 of the impacts of constructing and operating the NLE on the use of Kennington Station, particularly as regards safety. He is satisfied, firstly, that concerns about the effects of the physical works would be satisfactorily addressed (IR 8.222). With regard to interchange movements between the Bank and Charing Cross Branches at Kennington once the NLE is operational, the Secretary of State agrees with the Inspector that the four new cross-passages proposed by TfL would provide sufficient capacity; and that overcrowding due to service disruptions would be manageable and may improve with the Northern Line Upgrade (IR 8.227-229, 8.235, 8.249). He notes that (in the absence of more extensive redevelopment at Kennington station) step-free interchange would not be available for passengers travelling between NLE stations and stations south of Kennington towards Morden; and that those unable to negotiate stairs would need to transfer at London Bridge or, after 2019/20, at Elephant and Castle following the upgrade of that station (IR 8.24).

25. The Secretary of State recognises the concerns of objectors about the facilities at Kennington Station for escape in an emergency, but notes that the Office of Rail Regulation and the London Fire and Emergency Planning Authority have not objected to the NLE on these grounds. In the circumstances, he agrees with the Inspector that a full-scale improvement to Kennington Station to address access issues could not be justified at this time because of the technical, engineering and cost considerations and the inevitable delay to the NLE that would result (IR 8.240-241). He agrees further that it is appropriate as a precautionary measure to include condition 19 in Annex 1 to this letter, as recommended by the Inspector, which would require TfL to monitor passenger movements and congestion at Kennington Station (IR 8.245, 8.250, 9.16).

### **Mitigation measures**

26. The Secretary of State agrees with the Inspector for the reasons given at IR 8.252-258 that the various measures proposed for mitigating any adverse impacts of the NLE scheme would be adequate and commensurate with the environmental impacts predicted (IR 8.262). Under section 14(3AA) of the TWA, the Secretary of State is required to describe the main measures to avoid, reduce and, if possible, remedy the major adverse environmental effects of the scheme. In this case, he considers that the main measures to mitigate the adverse effects of the NLE scheme are the conditions set out in Annex 1 to this letter, including the CoCP and management plans required by those conditions, the Liaison Groups that would monitor the provisions of the CoCP, and the legal agreements between TfL and the London Boroughs of Wandsworth, Lambeth and Southwark.

### **Control of street works**

27. With regard to the disapplication of legislation controlling street works, considered by the Inspector at IR 8.258-261, the Secretary of State agrees that the precedented disapplication of provisions in the New Roads and Street Works Act 1991 included in the

Order is appropriate. However, the Secretary of State does not agree that the Order should disapply the common London Permit Scheme (“LoPS”) made under Part 3 of the Traffic Management Act 2004 as adopted by all London Boroughs and Transport for London. He considers that permit schemes such as LoPS are important tools to enable highway authorities to reduce congestion and to manage their networks effectively. The Secretary of State has assessed and approved the introduction of each of the permit schemes that have been developed. Evaluation by the LoPS Operational Committee, undertaken after 12 months of the operation scheme, indicates that the scheme has been applied successfully to works across London, which have contributed to small and large scale developments. He is not aware of any evidence that the application of a permit scheme has hindered the delivery of infrastructure projects. The Secretary of State has therefore decided to delete the proposed disapplication of LoPS in article 3(7) of the Order.

### **Adequacy of the Environmental Statement**

28. The Secretary of State agrees with the Inspector’s conclusions about the adequacy of the Environmental Statement (“ES”), including the ES Addendum, as regards both the scope of the ES and the baseline information and predicted impacts contained in it (IR 8.264-272); and he is satisfied that he has sufficient information for the purposes of this decision on this application. He agrees with the Inspector that the ES complies with the requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 and that the statutory procedural requirements have been met (IR 8.273). The Secretary of State confirms that in reaching his decision he has complied with the requirements of paragraphs (a) to (c) of section 14(3A) of the TWA relating to the consideration of the ES.

29. The Secretary of State has considered a post-inquiry representation from Kennington and Walworth Neighbourhood Action Group (“KWNAG”) which drew attention to the publication on 30 July 2014 of the Mayor of London’s consultation document “London Infrastructure Plan 2050” and the reference in that document to a possible further extension of the Northern Line from Battersea to Clapham Junction. This does not, however, lead him to differ from the Inspector’s conclusion on this issue at IR 8.266. Given that the Business Case for an extension to Clapham Junction has not been assessed, there is no defined scheme, and the proposals are not an integral or necessary part of the NLE, he remains satisfied that there is no obligation to assess the environmental impacts of a possible extension to Clapham Junction in the context of the NLE.

### **Conditions to be attached to the planning direction**

30. The Secretary of State agrees with the Inspector that, subject to the following comments, the recommended conditions at Appendix D to the IR are appropriate and satisfy the tests set out in Section ID:21a of Planning Practice Guidance on Use of Conditions (IR 8.274). The Secretary of State considers that in condition 14, which is intended to secure essential mitigation in relation to operational noise from fixed plant and machinery, the words “unless otherwise approved by the local planning authority” are inappropriate and should be omitted. He has also made a number of minor drafting changes to the conditions in the interests of clarity and precision. The conditions which the Secretary of State intends to attach to the planning direction are set out in Annex 1 to this letter.

## **TfL's proposals for funding the NLE**

31. The Secretary of State agrees with the Inspector that the method of funding the NLE (that is, from the increase of property value in the VNEB OA as a consequence of the NLE) is appropriate and accords with the Government's expectation that financing arrangements for transport infrastructure should be innovative (IR 8.279-281). He is, like the Inspector, satisfied that the funding proposals are as robust as they can be and that there is no firm evidence to suggest that the necessary level of contribution from the planned development in the VNEB OA will not be realised (IR 8.282-289, 8.291). While accepting that the funding method involves an inherent risks from economic downturn, the Secretary of State is satisfied that there are enough safeguards in place to ensure that the NLE would be completed once started and that in the later stages there should not be adverse consequences for the public purse (IR 9.20-21).

## **Compulsory acquisition matters**

32. The Secretary of State agrees with the Inspector that there is a compelling case in the public interest for conferring on TfL powers to compulsorily acquire and use land for the purposes of the NLE scheme. He agrees also that the land and rights in land for which compulsory acquisition powers have been applied are required to secure the satisfactory implementation of the NLE scheme (IR 8.292-295).

33. With regard to the acquisition and use of Crown land, TfL has informed the Secretary of State that an agreement was completed on 29 August 2014 between LUL and the Duchy of Cornwall relating to the acquisition of the subsoil beneath The Oval that is required for the construction of the NLE. The Crown Estate Commissioners have also confirmed that there are no in principle reasons why a consent cannot be given for the use of Crown Estate land in the River Thames for the purposes of the NLE scheme. The Secretary of State is therefore satisfied that there is unlikely to be any impediment to implementing those parts of the scheme which involve the use of Crown land.

## **Overall conclusions and decisions**

34. The Secretary of State recognises that implementation of the NLE scheme would inevitably have some adverse impacts particularly for those who live and work around the area of the surface works, even taking into account the comprehensive mitigation measures proposed; and that there would be significant harm to heritage assets at Kennington Green. He has noted also the Inspector's concerns about facilities at Kennington station. He agrees, however, with the Inspector that taking into account the crucial role which the NLE would play in regenerating the VNEB OA and the policy support for the scheme, there is a strong balance of advantage in proceeding with the NLE, as opposed to pursuing alternative options (IR 9.22-23). The Secretary of State is satisfied overall that the need for and benefits of the NLE scheme identified by the Inspector and referred to in this letter provide a compelling case for authorising the NLE which outweighs the adverse impacts of the scheme.

**35. Accordingly, the Secretary of State has decided to make the Order as recommended by the Inspector, but subject to the further amendments referred to below, and to direct that planning permission be deemed to be granted for the scheme, subject to the conditions set out in Annex 1.**



36. In addition to the changes to the Order sought by TfL and accepted by the Inspector (IR 8.297, 10.1), the Secretary of State intends to make the following further changes:

- in article 3 (application, modification and exclusion of legislative provisions relating to street works), to delete paragraph (7) as explained at paragraph 27 above;
- in article 26 (power to acquire new rights etc.), to insert a provision allowing for the transfer of the power to acquire new rights to a statutory undertaker with the consent of the Secretary of State;
- in article 33 (set-off for enhancement in value of retained land), to clarify that the provisions apply only in the context of the compulsory acquisition of land;
- to delete article 38 (trespass on authorised railway) which is unnecessary because section 55 of the British Transport Commission Act 1949 (for better prevention of trespass on railways &c.) would apply to the NLE;
- in Schedule 1 (scheduled works), Work No. 7 to delete the reference to provision of a community facility in conjunction with the head-house at Kennington Park which is not now proposed by TfL (see IR 1.17); and
- a number of other minor drafting changes which do not materially alter the effect of the Order.

The Secretary of State is satisfied that none of modifications made to the Order since application (including those sought by TfL in August 2013 as explained at IR 1.15-18) would make a substantial change in the proposals such as would require notification to affected persons under section 13(4) of the TWA.

37. The letter conveying the planning direction will be issued shortly, at the same time as the Order is made, following publication of a notice of the determination in the London Gazette.

#### **Notice under section 14 of the TWA**

38. This letter constitutes the Secretary of State's notice of his determination to make the Order with modifications, for the purposes of section 14(1)(a) and section 14(2) of the TWA. Your clients are required to publish newspaper notices of the determination in accordance with section 14(4) of the TWA.

#### **Challenge to decisions**

39. The circumstances in which the Secretary of State's decisions may be challenged are set out in the note attached at Annex 2 to this letter.

**Distribution**

40. Copies of this letter are being sent to those who appeared at the inquiry and to all statutory objectors whose objections were referred to the inquiry under section 11(3) of the TWA but who did not appear.

Yours faithfully,

**Martin Woods**

## CONDITIONS WHICH THE SECRETARY OF STATE INTENDS TO ATTACH TO THE DIRECTION AS TO DEEMED PLANNING PERMISSION

### Definitions

In these conditions, unless the context otherwise requires—

“building” means any structure or erection, or any permanent gate, fence, wall or other means of enclosure, above the surface of the ground;

“the Code of Construction Practice (Part A)” means the document of that title and referenced TfL13E, subject to any subsequent amendment to it agreed by the local planning authority;

“a Code of Construction Practice (Part B)” means a document of that title, whose contents must be in accordance with the specification set out in the Code of Construction Practice (Part A);

“the Design and Access Statement” means the document of that title comprising Appendix M to the Environmental Statement, including the amendments contained in Appendix MA to the Environmental Statement Addendum submitted to the Secretary of State for Transport on 27 August 2013;

“the development” means the works authorised by the Order;

“the Environmental Statement” means the document of that name submitted with the application for the Order;

“the local planning authority” means the London Borough of Lambeth in relation to any part of the development within its area, the London Borough of Southwark in relation to any part of the development within its area, and the London Borough of Wandsworth in relation to any part of the development within its area;

“the Noise and Vibration Asset Design Guidance” means the London Underground guidance document G1323 of that title and issued in April 2012, further details of which are set out in chapter 9 of the Environmental Statement;

“the Order” means the London Underground (Northern Line Extension) Order 2014;

“the planning direction” means the attached direction as to deemed planning permission for the development given under section 90(2A) of the Town and Country Planning Act 1990;

“the Planning Direction and Conservation Area Consent Drawings” means the drawings bearing that description submitted with the request for the planning direction;

“the relevant limits” means the limits within which the development may be carried out; and

“stage” means a defined part, section or stage of the development, the extent of which has been submitted to, and approved by, the local planning authority,

and references to numbered works are references to the works set out in Schedule 1 to the Order.

### **Time limit**

1. The development must not commence later than five years from the date that the Order comes into force.

*Reason: To ensure that the development is commenced within a reasonable period of time.*

### **Development in conservation area**

2. Those aspects of the development comprising the construction of head-houses on land at Kennington Park and at Kennington Green must be carried out in accordance with the details shown on the following drawings:

Planning Direction Drawing 46;  
Planning Direction Drawing 52A;  
Planning Direction Drawing 53A;  
Planning Direction Drawing 54A;  
Planning Direction Drawing 60;  
Planning Direction Drawing 65;  
Planning Direction Drawing 66; and  
Planning Direction Drawing 67.

Before works relating to the above aspects of the development commence, further drawings of those aspects of the development—

(a) showing any material revisions proposed to be made to the details of scale and external appearance provided within the above drawings; and

(b) at a scale of 1:50, or 1:20 if requested in writing by the local planning authority, along with details, including samples, of external materials,

must be submitted to and approved by the local planning authority.

*Reason: For the avoidance of doubt and in the interests of proper planning.*

## **Stations and other buildings: detailed design approval of above ground elements**

3.(a) Works relating to the following above ground aspects of the development must not commence until details of the scale and external appearance, including details of external materials, of the development concerned have been submitted to, and approved by, the local planning authority—

- (i) Nine Elms Station;
- (ii) Battersea Station; and
- (iii) any other building or alteration to an existing building for which details of scale and external appearance were not provided as part of the request for the planning direction.

(b) The siting of the stations must be in accordance with the following drawings—

- Planning Direction Drawing Number 13;
- Planning Direction Drawing Number 14;
- Planning Direction Drawing Number 15;
- Planning Direction Drawing Number 17;
- Planning Direction Drawing Number 29;
- Planning Direction Drawing Number 30;
- Planning Direction Drawing Number 31;
- Planning Direction Drawing Number 32; and
- Planning Direction Drawing Number 33.

(c) Except in the case of the stations, details of siting must be included in any such submission to the local planning authority to the extent that the siting proposed materially differs from that shown on the Planning Direction Drawings.

(d) Any details referred to in (a)(iii) above must be in accordance with the relevant design principles contained within the Design and Access Statement.

(e) The submitted siting and scale details must include plans at a minimum scale of 1:250, and elevations at a minimum scale of 1:100. Details of external appearance must include samples of materials to be used externally.

*Reason: To enable reasonable and proper control to be exercised over these aspects of the development.*

## **Landscape works**

4. No landscape works relating to the development are to commence until a landscape scheme has been submitted to, and approved by, the local planning authority. The landscape scheme must—

(a) provide for the landscape works at Kennington Park and Kennington Green to be completed no later than the end of the first available planting season following completion of the development at Kennington Park and Kennington Green;

(b) include an implementation timetable for all other landscape works; and

(c) where relevant, include details of the following—

(i) *Hard landscape proposals*

Proposed finished ground levels;  
Pedestrian access;  
Hard surfacing materials;  
Proposed and existing functional services above and below ground level such as drainage, pipelines, power and communications cables;  
Minor artefacts and structures such as street furniture, refuse or other storage units, signs and lighting (including lighting levels);  
Fencing; and  
Cycle storage facilities;

(ii) *Soft landscape proposals*

Proposed planting noting species, planting sizes and proposed numbers/densities;  
Schedules and plans of existing trees to be retained or removed;  
Written specifications including cultivation and other operations associated with plant and grass establishment;  
Ground levels; and  
Boundary levels; and

(iii) a maintenance management plan for the landscape works on the land at Kennington Park to be retained by the person or body responsible for carrying out the development or its successor.

*Reason: To provide a suitable setting for the development in the interests of visual amenity and to enhance flora and fauna.*

### **Replacement and protection of trees**

5. (a) No part of the development located within a conservation area is to commence until details of the trees to be removed or retained within that conservation area have been submitted to, and approved by, the local planning authority.

(b) Any trees removed or lost as a result of the development must be replaced on at least a one for one basis. Replacement planting must not take place until details (including location, species, size, numbers and densities) have been submitted to, and approved by, the local planning authority.

(c) Tree planting must be completed in accordance with the implementation timetable approved under condition 4 above, and any tree that within five years of the day of planting, or any tree planted in replacement for it, is removed, uprooted, destroyed, dies or becomes seriously damaged or diseased must be replaced in the earliest available planting season with a specimen of the same species and size as that originally planted unless the local planning authority gives consent to any variation.

(d) Any trees identified as to be retained in the landscape scheme approved under condition 4 and which are potentially at risk of damage from construction works must be protected in

accordance with details submitted to, and approved by, the local planning authority prior to any work commencing in the vicinity of those trees.

*Reason: In the interests of visual amenity and to ensure that planting is carried out in a timely manner.*

### **Code of Construction Practice (Part A)**

6. Construction of the development must be carried out in accordance with the provisions of the Code of Construction Practice (Part A).

*Reason: In the interests of amenity.*

### **Code of Construction Practice (Part B)**

7. No stage of the development is to commence until a Code of Construction Practice (Part B) relating to that stage has been submitted to, and approved by, the local planning authority.

*Reason: To protect the environment and amenity of the locality.*

### **Construction Noise and Vibration Mitigation Scheme**

8. The effects of constructing the development must be mitigated in accordance with the Construction Noise and Vibration Mitigation Scheme contained in Appendix N2 to the Environmental Statement.

*Reason: To protect the amenity of occupiers of premises close to construction sites.*

### **Contaminated land**

9. (a) No stage of the development is to commence until a scheme, for that stage, to deal with contamination likely to materially harm persons or pollute controlled waters or the environment, has been submitted to, and approved by, the local planning authority. The scheme must include—

- (i) a description of the stage concerned;
- (ii) an investigation and assessment to identify the extent of contamination at that relevant site, including both onsite and offsite sources; and
- (iii) details of the remediation measures required (both short and long term) and how they will be undertaken.

(b) Following the completion of the measures identified in condition 9(a)(iii), a verification report must be submitted to and approved by the local planning authority. The report must provide evidence that all required remediation measures have been put into effect.

(c) If in undertaking the construction of any part of the development, contamination not previously identified is found to be present in that part of the site, no further development is to be carried out on that part of the site until the details of how such contamination is to be dealt with have been submitted to and approved by the local planning authority and put into effect.

*Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.*

## **Archaeology**

10. No stage of the development within or immediately adjacent to an area identified in the Environmental Statement as being of known or suspected archaeological importance is to commence until a written scheme of investigation for a programme of archaeological work for that stage has been submitted to, and approved by, the local planning authority. Any works agreed must be carried out in accordance with the approved programme.

*Reason: To ensure that works are undertaken with due regard to any archaeological remains on the site.*

## **Built heritage**

11. Monitoring equipment to be affixed to listed buildings must not be installed until details of the equipment, the monitoring methodology and programme have been submitted to, and approved by, the local planning authority. The details agreed must be carried out in accordance with the approved programme.

*Reason: To ensure that works are undertaken with due regard to listed buildings.*

## **Highway access**

12. (a) No stage of the development is to commence until details of the siting, design and layout within the relevant limits of any new permanent means of access to a highway to be used by vehicular traffic serving any part of the development within that stage, or of the permanent alteration of any existing means of access to a highway to be used by vehicular traffic serving any part of the development within that stage, have been submitted to and approved by the local planning authority.

(b) Before the opening for public use of the development, a servicing management strategy for the management of vehicles visiting the new buildings comprised in the development must be submitted to and approved by the local planning authority.

*Reason: To ensure highway safety.*

## **Ground-borne noise from the operation of trains**

13. (a) Work Nos. 1, 2 and 3 must be designed and constructed such that their permanent plain track support system is a consistent system and is predicted by the person or body responsible for carrying out the development to give rise in all reasonably foreseeable circumstances to a level of ground-borne noise arising from the passage of a train in service on Work Nos. 1, 2 and 3 not exceeding 35dB L<sub>AFmax</sub> near the centre of any habitable room within a residential property.

(b) The permanent track support system associated with—



- i. the step plate junctions situated at the commencement of Work Nos. 1 and 2; and
- ii. the crossover situated immediately east of the station at Battersea Power Station (part of Work No. 3),

must be designed and constructed such that it is predicted by the person or body responsible for carrying out the development to give rise in all reasonably foreseeable circumstances to a level of ground borne noise arising from the passage of a train in service on Work Nos. 1 and 2 not exceeding 35dB  $L_{AFmax}$  near the centre of any habitable room within a residential property.

(c) The ground-borne noise prediction model utilised for the purpose of conditions 13(a) and (b) must be fully compliant with the guidance provided in ISO 14837-1:2005, *Mechanical Vibration – Ground-borne noise and vibration arising from rail systems - Part 1: General Guidance*.

(d) To demonstrate compliance with conditions 13(a) and (b), before installing any part of the permanent plain track support system or the permanent track support system associated with the step plate junctions situated at the commencement of Work Nos. 1 and 2, the following details must be submitted to the local planning authority—

- i. details of the ground-borne noise prediction model and its assumptions utilised for the purposes of conditions 13(a) and (b), including details of the model development, calibration, validation and verification procedures undertaken to comply with the guidance mentioned in condition 13(c), and the identified model accuracy;
- ii. the modelling results for the design identified for the purposes of conditions 13(a) and (b); and
- iii. the details of the type of permanent track support systems proposed.

(e) To demonstrate compliance with conditions 13(a) and (b), before Work Nos. 1, 2 and 3 are brought into public use, measurements of ground-borne noise arising from the passage of a train in service on those works, carried out by or on behalf of the person or body mentioned in conditions 13(a) and (b) and (subject to reasonable access being given) taken in a representative sample of habitable rooms in residential properties to be agreed with the local planning authority, must be submitted to the local planning authority.

(f) In maintaining the permanent track support systems that are designed and constructed pursuant to conditions 13(a) and (b), best practicable means (as defined in section 79(9) of the Environmental Protection Act 1990 and including a monitoring regime with regular inspections of the track) must be used to ensure continued compliance with the performance objectives set out in conditions 13(a) and (b).

(g) The Northern Line must be operated to ensure that the level of ground-borne noise arising from the passage of a train in service on the tracks between the southern end of the Charing Cross Branch platforms at Kennington Station and the points of commencement

of Work Nos. 1 and 2 does not exceed the  $L_{AFmax}$  level existing before Work Nos. 1 and 2 were brought into public use, measured from near the centre of any habitable room within a residential property.

(h) To demonstrate compliance with condition 13(g), before Work Nos. 1 and 2 are brought into public use, measurements of ground-borne noise arising from the passage of a train in service on the Northern Line between Kennington Station and the points of commencement of Work Nos 1 and 2, carried out by or on behalf of the person or body responsible for carrying out the development and (subject to reasonable access being given) taken in a representative sample of habitable rooms in residential properties to be agreed with the local planning authority, must be submitted to the local planning authority.

(i) The measurements of ground-borne noise to be taken under conditions 13(e) and 13(h) must be taken in accordance with a scheme submitted to and approved by the local planning authority. The scheme must be approved by the local planning authority before Work Nos. 1, 2 and 3 are brought into public use.

*Reason: To protect the amenity, in respect of noise and vibration, of occupiers of premises above, and close to, the alignment of the development.*

#### **Airborne noise from the operation of fixed plant or machinery**

14. (a) Any fixed plant and machinery forming part of the development must be designed (except for use in emergencies or during testing) in accordance with those provisions of the Noise and Vibration Asset Design Guidance that relate to fixed installations and noise . Best practicable means must be used to meet a design target for the rating level of noise emitted from fixed plant and machinery, as defined by BS 4142:1997, of no higher than a level 10 dB less than the external background noise  $L_{A90,T}$  at a point 1 metre outside any window of any residential or other noise sensitive property.

(b) Relevant details of the design sufficient to demonstrate compliance with the Noise and Vibration Asset Design Guidance must be submitted to the local planning authority.

*Reason: To protect the amenity, in respect of noise, of occupiers of premises close to fixed plant installed as part of the development.*

#### **Cultural strategy**

15. Before the commencement of fit-out works at Battersea Station and Nine Elms Station, a cultural strategy that is appropriate to underground stations and associated public realm, whilst having regard to wider culture and activities within Nine Elms as set out in the Nine Elms Business Plan and Strategies, and to the cultural strategies of other developments, must be submitted to, and approved by, the local planning authority.

*Reason: In the interests of visual and other amenity of the development and furtherance of the overall vision and place-making of the Vauxhall Nine Elms Battersea Opportunity Area Planning Framework (2012) area and as set out in LB Wandsworth's Site Specific Allocations Document (2012).*

### **Pedestrian links: Nine Elms Station**

16. The footway referred to in Appendix 1 (elements of the development or possible development) to the request for the planning direction, running from the western end of Pascal Street in a north-westerly direction to and through Arch No. 42 under the London Waterloo to Clapham Junction railway to provide a route to and from the proposed Nine Elms Station to the north side of that railway, must be available for public use before the station is opened for use by the public. The footway must be retained until such time as an alternative pedestrian link is provided.

*Reason: In the interests of amenity.*

### **Maintenance of head-house at Kennington Park**

17. Before the development is opened for use by the public a maintenance management plan for the upkeep of the external parts of the head-house at Kennington Park, including the sedum roof, must be submitted to, and approved by, the local planning authority.

*Reason: In the interests of visual amenity.*

### **Traffic regulation: junction of Kennington Park Road and Kennington Park Place**

18. Before commencement of the worksite on Kennington Park Place, a scheme for the introduction of a yellow box junction marking on the southbound side of the carriageway of Kennington Park Road, at its junction with Kennington Park Place, must be submitted to, and approved by, the local planning authority. The approved scheme must be implemented prior to construction being started on this worksite and retained until such time as the worksite has ceased to be used and the ventilation shaft and head-house has been completed.

*Reason: In the interests of highway safety and maintaining the free flow of traffic.*

### **Monitoring passenger movements at Kennington Station**

19. Before the commencement of the development a protocol for monitoring the passenger movements within Kennington Station must be submitted to, and approved by, the local planning authority. The approved protocol must be implemented following the opening of the development for use by the public. Should the results of the monitoring show more than a 10% increase from the levels of passenger movement within the station predicted by Transport for London, Transport for London must consult the Office of Rail Regulation and the London Fire and Emergency Planning Authority and submit details of their responses to the local planning authority.

*Reason: In the interests of the public safety.*

### **Approval and implementation under these conditions**

20. Where under any of these conditions the approval, agreement or consent of the local planning authority is required to any matter, that approval, agreement or consent must be given in writing. The development must be implemented in accordance with any such

approval, agreement or consent, or any subsequent revisions that have been submitted to, and approved by, the local planning authority.

*Reason: To provide for certainty in the approvals and implementation processes.*

END

## **RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA**

Any person who is aggrieved by the making of the Order may challenge its validity, or the validity of any provision in it, on the ground that –

- it is not within the powers of the TWA; or
- any requirement imposed by or under the TWA or the Tribunals and Inquiries Act 1992 has not been complied with.

Any such challenge may be made, by application to the High Court, within the period of 42 days from the day on which notice of this determination is published in the London Gazette as required by section 14(1)(b) of the TWA. This notice is expected to be published within three working days of the date of this decision letter.

## **CHALLENGES TO DEEMED PLANNING PERMISSION GIVEN IN CONNECTION WITH A TWA ORDER**

There is no statutory right to challenge the validity of the Secretary of State's direction that planning permission shall be deemed to be granted for development for which provision is included in the Order. Any person who is aggrieved by the giving of the direction may, however, seek permission of the High Court to challenge the decision by judicial review.

**A person who thinks they have grounds for challenging the decision to make the Order is advised to seek legal advice before taking action.**