

**LB Tower Hamlets and KEMP meeting with Thames Water – Working Party  
25 September 2012 @ 5.30 pm**

**Present:**

**Tower Hamlets:** Councillor Alibor Choudhury (Shadwell) (Chair); Andrew McKenzie (LBTH Technical Project Manager)

**Save KEMP:** Carl Dunsire (Campaign Chair); Robin Millward (Secretary)

**Thames Water:** Phil Stride (Head of London Tideway Tunnels); Derek Arnold (Lead Project Engineer); Paul Iliff (Head of Planning, East); Mark Job (Manager, Landscape Design)

**Apologies:** Councillor Stephanie Eaton (Bethnal Green North); Councillor Peter Golds (Blackwall and Cubitt Town); Councillor Joshua Peck (Bow West); John Biggs (GLA, Assembly Member London & East); Heather Bonfield (Interim Service Head – Culture, Learning and Leisure Services, LBTH); Emma Puosi (Campaign Vice-Chair); Toni Davey (Community Liaison).

**1. Date of next meeting / introductions**

- 1.1 The next meeting will take place on 27 November at 5.30 pm at LBTH Town Hall, Mulberry Place. Andrew McKenzie (AM) will arrange for diary invitations to be sent.
- 1.2 Phil Stride (PS) introduced Mark Job (MJ), who was attending the meeting specifically to contribute to the discussion on landscaping.

**2. Section 48 process**

- 2.1 Councillor Choudhury (AC) asked for an update on current developments.
- 2.2 Derek Arnold (DA) tabled the plans which would form part of the S.48 submission. These were included in the S.48 publicity and would be the main part of the DCO application next year. There were drawings for information, drawings for illustrative purposes and drawings for approval. Drawings for approval were binding and define the extent of works under the DCO. Drawings for illustrative purposes were intended to define the design principles. Drawings for information provide further information on how TW see the scheme developing; these may change when a contractor starts to assess the project in the construction phase.
- 2.3 S48-PP-24X-KEMPF-000303 (for information) was the location plan which showed the order limits for the project (the tunnel and the shaft) and the land required to build the works.
- 2.4 S48-AC-24X-KEMPF-000022 (for approval) dealt with access to the site and any changes to rights of access that had to be incorporated into the proposals; it showed how Thames Water (TW) would enter the site from the public highway and the temporary diversion of the Thames Path. Other plans would cover the order limits of the works in more detail.
- 2.5 SP48-PP-24X-KEMPF-000304 (for information) showed the existing area of the Park.
- 2.6 S48-PP-24X-KEMPF-000305 (for approval) showed the demolition and site clearance, including trees to fell or prune including the removal of the bandstand and some of the Trees for Cities compound.
- 2.7 S48-PP-24X-KEMPF-000306 (for approval) was the site parameter plan. This showed the areas needed for the construction of works, with the black dotted line being the outer limit, and other features. The orange line defined the maximum extent of the structure intended to be built into the foreshore and give reassurance as to its limits. It also showed the location of the shaft and the vents; the hatched area would be landscaped and reinstated on completion.

- 2.8 Carl Dunsire (CD) asked whether the maps used coordinates. DA said that the maps were based on TQ mapping. PS said that with the GIS model, all coordinates related to each other. All plans generated were fixed and locked into a 3D “cube” so that everything related to each other without misalignment.
- 2.9 S48-PP-24X-KEMPF-000307 was a breakdown of Drawing 5.
- 2.10 S48-PP-24X-KEMPF-000308 was an illustrative drawing (in the hierarchy, above “for information” and below “for approval”. It showed the way in which the engineering and all the structures could be fitted within the parameters shown on the plan. The purpose of the drawing was to show to stakeholders and the Planning Inspectorate that TW had a workable solution but these were not exact dimensions as some flexibility was needed to facilitate these discussions.
- 2.11 S48-PP-24X-KEMPF-000309 was an illustrative site features plan. Putting the underground work out of the picture, it was intended to show how the park could be finished post construction. The illustrative plan would be submitted with the DCO and would show how TW was committing to finishing the project, incorporating these features unless the discussion with stakeholders led to changes (e.g., changes in the number of trees).
- 2.12 CD said that if this was illustrative, it gave a flavour of what TW wanted to do but TW would not be held to it. It would be held to “some trees” but not to a specific number. DA said that TW would go with design principles such as the replacement of more trees than those which were felled. Planting would be to a certain standard. CD asked if the design principles were for approval. DA said yes, and these would also incorporate the design for safe access.
- 2.13 AM asked who would agree when the final details were submitted. Would it be the Planning Inspectorate or the local authority? Paul Iloff (PI) said that it was normally the Planning Inspectorate but they didn’t want to do it and it was more likely to be LBTH. DA said that the principles had already been submitted and now was the time for LBTH to raise any points with which they disagreed. There were illustrative sections showing the completed project and then illustrated plans showing how TW would carry out the work and showing that it was feasible, especially with regard to phasing the construction. The plans would not bind a contractor to put his security hut in a specific place; the contractor would have to make proposals. There were four main phases of construction but in reality, many more phases had to be planned.
- 2.14 CD asked whether if, for instance, there were a principle that everything had to be run on electric power, how would the contractor be bound to comply with that? PI said that the Code of Construction Practice was in two parts: (a) general, for all sites regarding noise, vibration, specification for the plant etc. and (b) site specific. CD said that Part B of the Code of Practice was something to be agreed with the Council. PI said that this was already with the Council.
- 2.15 AM asked by way of illustration how TW would deal with the transport of a large amount of material in and out by barge. PI said that it was in the Code of Construction Practice. DA said that it was shown in the drawings and also in the transport strategy for the S.48 submission. AM said that the material sent out in the previous week showed how traffic would flow if barges were not used. How would the contractor be committed to using a barge? PI said that the Code of Construction Practice would be a contractual document.
- 2.16 CD asked about the language of the Code of Construction Practice which referred to changes having to be “reasonable and practicable” as determined by the TW project manager on the basis of what he determined to be “economic and efficient”. This was very unusual for a

project of this size and seemed to give TW the option to say “We can’t be bothered and we’re not doing it”.

- 2.17 PS said that this was intended to allow for circumstances that might arise that TW didn’t know about and there had to be some test of reasonableness and a test of what was economic / efficient. TW was not making its own rules; language like this was used in other documents such as transport strategy and the overall strategy specifying what the contractor had to do.
- 2.18 CD said that as TW was the developer, this was a license to do what TW pleased. The City of London was very rigorous in making certain that “reasonable and practicable” was best industry practice, whatever had been done before.
- 2.19 PS said that in respect of any construction project, TW set out what it saw as the means by which it wanted to achieve its objectives, being definitive in what was set out but leaving enough room for the contractor to employ his methods of work with his equipment, as reflected in the indicative drawings. When the contractor carries out further investigations and encounters something unforeseen, then there has to be flexibility to move the shaft within the parameters of the scheme. What was being put forward was consistent with TW’s current knowledge of the site but could not anticipate everything the contractor would find when he started work. TW was committed to deliver what it had proposed and had the best intention of doing what it said it would do, but some flexibility was essential.
- 2.20 CD said that the language was a “get out of jail free” card for TW.
- 2.21 DA said that current knowledge had informed the impact assessments. If something came up which meant that a particular piece of plant couldn’t be used, or if its use would have impacts outside those already assessed, TW would have to revisit its proposals and demonstrate what could be done. CD said that TW made the rules and decided, itself, what was economic and efficient. Malcolm Orford had said that the sheet piles for the cofferdam would not be driven when in fact, this might be required. TW now had the license to say that it did not have to follow a particular course if they decided it was not economic and efficient to do so.
- 2.23 PS said that in moving from design to construction, if something changed on the ground which had not been foreseen, TW would apply the tests of being reasonable, practicable and how much it would cost. This is the same as would normally be done. AC said that LBTH and the community wanted some kind of reassurance that TW would not stray too much from the original plan. The scheme was already an issue with a lot of people and AC did not want it to escalate.
- 2.24 PS said that this was not the intention; there would still be overarching strategy documents regarding moving materials etc. CD reiterated that this was a “get out of jail free” card. PS said that TW did not intend to move away from the Code of Construction Practice – either the general terms or the site-specific ones. CD said that the Code did not refer to considering the impact on the community and that TW would do what was economic, regardless of the impact, rather than following industry best practice. PS said that if CD was concerned about the wording, this could be looked at. PI said that although not covered in the introduction to the Code, reference to best practice was made later in the document and TW would comply with the details.
- 2.25 CD said that the community and LBTH wanted robust protection for the community, so that the impact on the community was top of the construction team’s minds. The City of London always took the view that it was best to avoid adverse impacts on the community. DA said that the City of London had not objected to the wording of the Code. AC said that the issue was around trust: TW should identify what would happen in the worst case and how this

would be dealt with rather than leaving it to the imagination. LBTH took no comfort from the wording of the Code; the Council was sceptical but there were people who were even more sceptical.

- 2.26 PS said that it was not TW's intention to write as flexibly as possible; if something changed, TW had to control what it changed to. If changes were needed, TW would discuss what had to be done and assess options against the factors of reasonableness and costs. DA said that TW would have a Section.61 agreement with LBTH regarding noise. Whatever methodology was used, noise limits were set, defined and would be monitored. Noise limits had been assessed using normal best practice analysis and specifications regarding acoustic barriers and the type of plant used would be included in the s.61 agreement. CD said that as TW was choosing to put a construction site in the Park, which was a quiet environment, TW should go over and above what was normal practice in order to minimise noise.
- 2.27 AC asked what might go wrong, apart from noise. PS said that it was hoped that nothing would go wrong and that works could proceed as detailed on the drawings. However, a site investigation or bore hole did not give the detailed knowledge of the site which came with digging it up. There might be an electricity cable or land drains. Land drains couldn't be cut off; TW would have to live with them and work around them. AM said that LBTH needed to be absolutely certain that if TW said something was going to be expensive but was the best solution, it would not be ruled out on grounds of cost.
- 2.28 CD said that what was needed was the best protection for the community. The longer and more costly option might have less impact on the community. DA said that one risk might be that the ground in the Park was too hard to use non-percussive piling rigs. TW would have to weigh up making more noise and getting the job done quickly, or making less noise but over a longer period. CD said that this meant that stakeholders who used the Park were not at the top of the agenda.
- 2.29 AC asked if it were too late to make clear in TW's submission how it intended to respect and value the concerns of stakeholders. PS said that TW would look again at the wording "to see whether it conveys the meaning we intended". AC asked whether TW would consider putting Heckford Street into the submission as an alternative, PS said that this had been discussed at the last meeting and was not part of the promoter's role (see paragraphs 2.10 – 2.13 of the Minutes of the 10 July meeting).
- 2.30 CD said that TW had promised that there would be changes in Phase 2, including avoiding the use of the playing field. DA confirmed that TW was committed to this and the playing field would not be used except for access across the bottom. PI said that because space had to be taken for access, the playground would have to be reconfigured. CD asked how the DCO would deal with TW returning the playground to the community before the end of the project. PS said that this was included in the site-specific part of the documentation and DA confirmed that the only reason the plans showed the playground was because it had to be realigned to allow the site to be useable for construction. PS said that the playground would be handed back before works were started and that this was in the Code of Development Practice.

### **3. The CPO process**

- 3.1 PS said that TW did not intend to purchase land that it did not need long-term, but rather to buy rights of access for the construction period. TW didn't propose to acquire land from the Park but rights of access were needed for construction and to access and maintain the facilities which would be part of the permanent works.

- 3.2 PI said that the CPO and the DCO could not be separated. At the moment, TW was investigating what rights were held over the land which it needed to acquire. Leasehold rights would be suitable in some cases and TW was not seeking freehold rights over everything. The next step was to negotiate with the people who held those rights and TW's first priority was to negotiate an agreement with the landowner. If this was not possible, it would remain in the CPO for the Planning Inspectorate to decide.
- 3.3 From the date of submission, expected to be January 2013, there would be 6 weeks for acceptance.
- 3.4 There would then be a pre-examination period totalling 3 months (12 weeks), including concurrent publicity showing the accepted application at the beginning of this period. The publicity stage would form part of the 12 week period.
- 3.5 The key date would not be fixed by TW but by the Planning Inspectorate, who would set the date for the preliminary meeting. From that date, there would be 6 months in which to hold all representations and examinations.
- 3.6 The Planning Inspectorate would then have 3 months in which to submit their report to the Secretary of State and the Secretary of State then had 3 months in which to make a decision, as laid down in the guidelines. [Assuming the decision was favourable] the CPO would then be in force and the position was the same for open spaces.
- 3.7 There would be a 6 week period for judicial review.
- 3.8 PS added that in the current climate where infrastructure projects were seen as benefiting the economy, there was likely to be more pressure to meet deadlines than there would have been 6 to 12 months ago.
- 3.9 AM said that he thought that open space required a different procedure, a special Parliamentary process which "takes as long as it takes". Was it possible to avoid this by obtaining a replacement land certificate? PI said no. But at the moment there was a debate among planning professionals about the Special Parliamentary Procedures and how they could be used. AM said that if TW did not want to acquire the freehold, the Council would retain ownership and TW would have a permanent right or easement, was that correct?
- 3.10 DA said that TW would like to negotiate that, but there would be some land around the shaft which TW would want to own. The green line [the front of the Park on the map] was the maximum amount of land TW would retain if agreement could not be reached to lease it or have rights of access. TW would have to safeguard its position. AM asked if TW went ahead with a CPO, could it be given those rights as the CPO did not have to say that TW would own the land. PI said that if there were no agreement on access rights, TW could acquire and retain the freehold. PS reiterated that it was not TW's intention to own the land but if they had to CPO the front of the Park they had been advised that they should retain ownership.
- 3.11 CD said that TW would be responsible for maintaining the space it retained. PS said that this could be done directly or through an agent. But at the moment there was a debate among planning professionals about the special Parliamentary procedures and how they could be used.

#### **4. Landscaping**

- 4.1 CD said that landscaping had never been discussed as part of the planning scheme and the drawings did not seem realistic. The community's view was that TW was denuding the entire front of the park. What would happen afterwards? What were the risks and how long

would it take to restore the Park? It could take 15 years for trees to grow up and the community was concerned that the Park would be left as a barren space, with no appeal, and TW would have destroyed the only Park in the area.

- 4.2 PS said that Mark was the person who had been responsible for the planting out of mature trees at the Olympic Park. CD pointed out that they had been needed for only a short time and mature trees were more likely to die when replanted.
- 4.3 Mark Job (MJ) said that community impact was at the top of the agenda, as was the environmental impact side of things. This (KEMP) was a great Park and the aim was to minimise tree removal and route things to minimise disruption. Proposals for removal could be seen on the "For Approval" drawing; one of the design principles is to plant more trees than are felled. As soon as works allow, TW will get trees into the ground and MJ was keen to engage to see if there were other things that could be done in the park to get more trees in straightaway.
- 4.4 DA said that the advanced planting of trees was shown on the structured plan. They could only be planted with the landowner's agreement because they fell outside the TW project polygon. Advance planting, which would help to minimise the visibility of the construction works, could only be done in agreement with LBTH. There was some inconclusive discussion about timing.
- 4.5 MJ said that TW really was seeking to plant big trees and research had been done. It was difficult to choose what type of tree to plant because the Park was a great mix of species. He could put forward a proposal and include something in the design principles regarding planting big trees as soon as possible in the construction programme. Some of the trees north of the path would be reinstated (where they had been removed for access) but he was certain that semi-mature or specimen trees could be identified to be planted that would be more than 10m high with 4 to 6m crowns. The drawing showed the works in Year 1 of the Thames Tunnel scheme. The site had to be constructed earlier in the programme so that the trees could begin to mature. That was the basis of the environmental statement and the documents were supported by a photomontage showing the scheme during construction as well as operation of the illustrative scheme.
- 4.6 PS said that if the TT started in 2016 and was completed half way through 2019, it would be possible to show what the Park would look like in 2023, four years after TW left the site, although some of the trees might have been planted before TW left the Park. TW would work to make the plantings look as mature as possible as quickly as possible.
- 4.7 CD said that if trees were being felled in 2016, this did not address community concerns about the Park being left barren. MJ said that it would take a season for the big trees to bed in; they would be the right size but would not absolutely flourish at first. The trees would be well-maintained and detailed instructions, in line with best industry standards, would be given to the responsible contractors. It should be looking good the first summer that the trees are put in and they will be put in as soon as TW is allowed to do so.
- 4.8 CD said that TW had promised to maintain and replace, but this would not start until mid-2019. DA said that 2016 was the earliest date. The site was not on the critical path for the TT project at the outset, but would become critical because the boring machine from Chambers Wharf must go through the bottom of this shaft. TW was not committing to 2016 or 2017 but to "a suitable period after the project had started", allowing for the Chambers Wharf element to be built first.

- 4.9 CD asked what the Park would look like. PS said that there would be 6 months commissioning, where heavy access would not be needed and other structures would be constructed. Towards the end of the commissioning period, there would be more opportunity to plant. Before TW started or while on site, it might be possible to have a planting regime which went from before TW started and continued while TW was in the Park; the aim would be to plant as soon as possible, not to wait until all works were completed. PS said that the shaft construction would be complete before the end of Year 2. As the level of heavy engineering decreased, more could be done to plant early. CD summarised by saying that landscaping would be done as part of the 3.5 year programme but asked what year was shown in the landscape drawing. MJ said that this was 2023 or two to three years after the large trees had gone in, so 2018 at the earliest.
- 4.10 AM asked if large trees could be planted on the foreshore after TW's construction works were finished. MJ said that the site would require trees with shallow rooting systems to avoid damaging the infrastructure and there would have to be a particular type of drainage and lots of other techniques of which the contractors would be informed. There would have to be enough growing medium for these types of trees and this would be included in the instructions to the contractors. PS said that those trees would need a higher level of maintenance and extra watering.
- 4.11 DA said that without a dialogue, TW was just coming up with ideas and the designers could come up with hundreds of schemes. CD said that TW had been told that the community was worried about the Park being barren and the ventilation shafts being highly visible, but the drawings still showed a barren foreshore. PS said "We get the message that green is better. We can do that." DA added that a pre-requisite was a successful dialogue with the local authority – reaching agreement with LBTH. MJ said that everyone wanted a well-designed scheme but there was a lot of infrastructure involved and trees could not be planted on hatches, TW would take the scheme as far as it possibly could. CD said that more detail was needed but the discussion had provided food for thought. MJ suggested that there could be discussions around the time of the next planting season, but PS added that TW had to respect the DCO process so that it did not appear TW was starting without consent.
- 5. Any other business**
- 5.1 For information, AM advised TW that the Council's response to the s.48 proposals was now available on the Council's website and would go to Cabinet on 3 October. The Council's final submission would reflect Members' decisions.

The meeting ended at 6.55 pm.