
STATUTORY INSTRUMENTS

2014 No. 2384

**The Thames Water Utilities Limited
(Thames Tideway Tunnel) Order 2014**

PART 4

MISCELLANEOUS AND GENERAL

Safeguarding

52.—(1) Save in respect of exempt applications, before granting planning permission for development to which this article applies, a relevant planning authority must consult the undertaker.

(2) This article applies to development which—

(a) prior to completion of construction, would be wholly or partly either—

(i) in respect of the locations of proposed tunnels which will form part of the authorised project, within the construction phase safeguarding zone and at a depth of 10 or more metres below existing ground level; and or

(ii) in respect of all other parts of the authorised project, within the construction phase safeguarding zone;

(b) after completion of construction, would be either—

(i) wholly or partly within 6 metres of any tunnel forming part of the authorised project (measured from the inside face of the tunnel on the horizontal and vertical axes through the centre point of the tunnel such that the area subject to this provision is the area falling within the square defined by those horizontal and vertical parameters); or

(ii) wholly or partly within 10 metres (measured horizontally) of the outside structural surface of any shaft or other underground structure forming part of the authorised project but not falling within (b)(i); or

(iii) in all other cases, in the reasonable opinion of the relevant planning authority, having regard to the guidelines provided by the undertaker further to paragraph (3) below, likely to adversely affect the authorised project or its operational integrity.

(3) Paragraph 2(b) is conditional upon the undertaker providing to the relevant planning authority—

(a) notice of completion of construction pursuant to requirement PW16;

(b) ‘as built’ drawings of the tunnels and other below ground structures forming part of the authorised project within the relevant planning authority’s area; and

(c) a set of guidelines to which the relevant planning authority can have regard in the discharge of its obligation under paragraph 2(b)(iii).

(4) In the event that the relevant planning authority, in discharging its duty under paragraph (2)(b)(iii) of this article and having had regard to the guidelines issued under paragraph 3(c), is uncertain as to the reasonable likelihood of adverse effects on the authorised project or its operational integrity,

then the relevant planning authority shall be under a duty to comply with paragraph (5) as if the development for which planning permission has been applied for falls within paragraph (2)(b).

(5) Where this article requires a relevant planning authority to consult the undertaker before granting planning permission—

- (a) they must give the undertaker notice of the application for planning permission (unless the applicant has served a copy of the application on the undertaker), and
- (b) they may not determine the application before the end of the period of 21 days, beginning two working days after the relevant planning authority has sent the notice to the undertaker by first class post or by such other means of service which may be agreed with the relevant planning authority, which will be deemed to be the date on which the undertaker receives the notice or copy of the application.

(6) But a relevant planning authority may determine an application during that period if the undertaker has—

- (a) made representations to the relevant planning authority about the application, or
- (b) notified the relevant planning authority that it does not intend to make representations.

(7) In determining an application for planning permission a relevant planning authority must take into account any representations received in accordance with this article.

(8) The requirement to consult under this article shall be a local land charge.

(9) In this article—

“construction phase safeguarding zone” means the area of land comprising the Order limits;

“exempt applications” means an application for planning permission which relates to development that— (i) consists of an alteration to an existing building, or the change of use of an existing building or land; and (ii) does not involve, or is not likely to involve any construction engineering or other operations below existing ground level; and (iii) is demonstrated by the party applying for such planning permission to the reasonable satisfaction of the relevant planning authority, as not being likely to breach the guidelines referred to at paragraph 3(c) of this article;

“relevant planning authority” means, for the purposes of this article, the planning authority in receipt of an application for planning permission to which this article applies; and

“operation” includes the testing and commissioning of the proposed development.