

Mr Martin Stuckey
Project Director
Thames Gateway Bridge
Transport for London
19th Floor Portland House
Bressenden Place
LONDON SW1E 5RS

Your ref:

Our ref: DN5002/55/12/M/1
DN5002/55/7/1
DN5002/60/1/03
The Toll Order

Date: 25 July 2007

Sir

**HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981**

- (1) THE A2012 GLA ROAD (THAMES GATEWAY BRIDGE) SPECIAL ROADS AND BRIDGE SCHEME 2004 (“the Scheme”)**
- (2) THE A2012 GLA ROAD (THAMES GATEWAY BRIDGE) (SIDE ROADS) ORDER 2004 (“the SRO”)**
- (3) THE A2012 GLA ROAD (THAMES GATEWAY BRIDGE) COMPULSORY PURCHASE ORDER 2004 (“the CPO”)**
- (4) THE A2012 GLA ROAD (THAMES GATEWAY BRIDGE) TOLL ORDER 2004 (“the Toll Order”)**

1. I am directed by the Secretary of State for Transport to refer to the Public Local Inquiries held between 7 July 2005 and 3 May 2006 by the Inspector, Michael Ellison MA(Oxon), assisted by John Watson BSc(Hons), FIHT, MICE, MCMI, to hear objections to and representations about the Scheme, the SRO, the CPO, and the Toll Order, submitted by Transport for London (“TfL”), for its proposed Thames Gateway Bridge (“TGB”) and to the report of the Inspector to the Secretary of State for Transport in respect of that particular Scheme and Orders.

2. The Inquiries ran concurrently with the Inquiry into TfL’s applications for planning permission for (a) the construction of the TGB linking the A13/A406 in Beckton to the A2016 Eastern Way, Thamesmead (“the proposed bridge application”) and (b) for a construction work site and an amendment to the area shown as a construction work site, for the proposed bridge. These two planning applications were referred to the Secretary

Local Authority Orders

Citygate
Gallowgate
Newcastle upon Tyne
NE1 4WH

Switchboard: 0191 202 3300
Direct line: 0191 202 3641
Fax: 0191 202 3744

Email: Julie.HUME@gone.gsi.gov.uk

Roads Strategy Division

Great Minster House
76 Marsham Street
London
SW1P 4DR

Switchboard: 020 7944 8300
Direct line: 020 7944 4447
Fax: 020 7944 2195

Email: Adam.Simmons@dft.gsi.gov.uk

of State for Communities and Local Government (“the Secretary of State for CLG”). A separate letter has been issued today on her behalf deferring her decisions on those applications.

THE SCHEME AND THE ORDERS

3. If confirmed by the Secretary of State for Transport, TfL would be authorised -

(1) under the Scheme to -

(a) provide for the use of traffic of Classes I, II, IV and X of the classes of traffic set out in Schedule 4 to the Highways Act 1980 –

(i) a main new special road of 3.37 kilometres in length, from a point 240 metres north of the northern junction of the A1020 Royal Docks Road with Armada Way at Beckton in the London Borough of Newham in a southerly then south easterly direction across the River Thames to a point on the A2016 Eastern Way 280 metres east of the centre point of the A2016 Eastern Way/A2016 Western Way/A2041 Central Way roundabout junction at Thamesmead in the London Borough of Greenwich; and

(ii) four connecting special roads, comprising a northbound exit slip road and a southbound entry slip road to connect the main new special road described in (i) above to a new roundabout junction on the A1020 Royal Docks Road at the Winsor Terrace junction; and a northbound entry slip road and southbound exit slip road to connect the main new special road described in (i) above to the A2016 Eastern Way, the A2016 Western Way and the A2041 Central Way gyratory junction; and

(b) construct over the navigable waters of the River Thames the, 3 span, bridge, which will carry two highways including the main new special road described in (i) above, specified in the Schedule to the Scheme, at Gallions Reach between the London Borough of Newham and the London Borough of Greenwich;

(2) under the SRO to -

(i) improve highways, stop up highways, construct new highways and provide new means of access to premises in the vicinity of the routes of the special roads described in (1) (a) (i) and (ii) above, and the new classified road TfL are proposing to construct from a point on the A406 North Circular Road 430 metres north of the centre point of the A13 carriageways at the A13/A406/A1020 grade separated junction at East Ham southwards to a point 240 metres north of the northern junction of the A1020 Royal Docks Road with Armada Way at Beckton (where it will connect with the main new special road described in (1) (a) (i) above), all in the London Borough of Newham; and

(ii) to transfer certain of the new highways mentioned above to the highway authorities of the London Borough of Newham or the London Borough of Greenwich, as specified thereto in the Order;

(3) under the CPO acquire compulsorily land and rights on land for the purposes of the construction of the special roads described at (1) (a) (i) and (ii) above; the construction of the new classified road described in 2 (i) above; the construction of highways, the improvement of highways and the provision of new means of

access to premises in pursuance of the SRO; the provision of buildings or facilities needed for the acquiring authority's functions as a highway authority, namely the provision of a highways' depot to be used in connection with the construction or improvement of highways referred to in this article or with their future use or maintenance; the execution of other works on watercourses in connection with the construction and improvement of highways and the execution of other works, as aforesaid; the use by the acquiring authority in connection with the construction and improvement of highways and the provision of new means of access to premises, as aforesaid; for mitigating any adverse effect which the existence or use of certain of the highways proposed to be constructed or improved by the acquiring authority will have on their surroundings; and for the purpose of giving in exchange for land included in the CPO which is public open space; and

- (4) under the Toll Order set the maximum toll charge in relation to a one way use of the main new special road (described at (1) (a) (i) above) for the period of 40 years beginning with the date of opening of that main new special road. Under the tolling formula proposed by the Order, as made by TfL, the maximum toll for one way use of the main new special road (in either direction) that may be applied, at July 2004 prices, would for Motor cars, motor cycles and motor caravans be £4.00; Small goods vehicles be £5.40; and Any other vehicles be £8.70.

THE INSPECTOR'S REPORT

4. At the start of the Inquiries there were 2949 objections outstanding to the Special Roads and Bridge Scheme or to the TGB proposal generally. Most of these were objections to the principle of a Thames crossing open to general vehicular traffic in this location. Of this total 2949 objections, 2836 were contained in petitions (608) or in one of eight standard form letters of objection (2228). Some 143 of these standard forms were signed by or on behalf of more than one (usually two) people. On the other hand, there were 47 expressions of support for the proposal, 11 of which were in standard form. There were also 12 representations. During the Inquiries, 1,819 further written representations were received which were opposed to the proposed development, all but 35 of them in standard form. Nine written representations in support of the development were received. There were two further representations.

5. Twenty two objections were withdrawn during the Inquiries. These included all the twelve statutory objections to the CPO which had remained outstanding at the opening of the Inquiries. Five objections to the Scheme, six objections to the SRO, and four objections to the Toll Order were also withdrawn during the Inquiries.

6. The Inspector has considered all the objections to and representations about the Scheme and Orders both as made in writing and presented orally at the Inquiries and has submitted his report to the Secretaries of State. A copy of that report is enclosed with this letter. References in this letter to the Inspector's report are indicated by the abbreviation "IR" followed by the paragraph number in the report.

7. The Inspector summarises the case for the TfL in relation to the Scheme, the SRO and the CPO at IR 4.459 to IR 4.483 and in relation to the Toll Order at IR 4.485 to IR 4.495. The case for the supporters of TfL's scheme is contained in part 5 of the Inspector's report (IR 5.1 to IR 5.199). The case for the objectors, to TfL's TGB generally, and TfL's responses are summarised in part 6 of the Inspector's report (IR 6.1 to IR 6.1784) with representations covered at part 7 (IR 7.1 to IR 7.44). TfL's overall response can be found at part 8 of the report (IR 8.1 to IR 8.83). The Inspector's conclusions are detailed at part 9 of the report (IR 9.1 to IR 9.498), with those which relate to the Scheme, the SRO, the CPO and the Toll Order, given at IR

9.446 to IR 9.498, whilst his recommendations are given at IR 10.4, IR 10.5, IR 10.6 and IR 10.7, respectively.

OBJECTIONS TO THE PROPOSALS

8. The main grounds of objection to the TGB proposals were:
- a. that they did not conform to the Development Plan for the area or to national planning guidance.
 - b. that the traffic modelling carried out by the promoters was inadequate.
 - c. that the proposed development would lead to unacceptable levels of traffic congestion, especially in LB Bexley.
 - d. that the consequences of additional traffic arising from the proposed development would lead to unacceptable levels of air and noise pollution.
 - e. that the proposed development was in reality the first phase of a plan to link the A406 to the A2 by means of a motorway standard road.
 - f. that the proposed development would not deliver the regeneration benefits claimed for it.
 - g. that the proposed development would have an unacceptable impact on wildlife and nature conservation.
 - h. that the public consultation in relation to the proposed development had been inadequate.
 - i. that the tolling arrangements envisaged under the Toll Order were unacceptable.
 - j. that there were more acceptable ways in which the benefits aimed at by the proposed development could be achieved.

SUPPORT FOR THE PROPOSALS

9. There was support for TfL's TGB plans from the London Borough of Greenwich Council, London Borough of Newham Council, London Borough of Barking & Dagenham, London Borough of Havering, London Borough of Lewisham, as well as other organisations including London First, London Development Agency and individuals including Members of Parliament The Rt Hon Nick Raynsford MP for Greenwich and Woolwich, Jon Cruddis MP for Dagenham and Dr Howard Stoate MP for Dartford.

THE INSPECTOR'S CONCLUSIONS AND RECOMMENDATIONS IN RELATION TO THE SCHEME, THE SRO, THE CPO AND THE TOLL ORDER

10. A copy of the Inspector's Conclusions and Recommendations in relation to the Scheme, the SRO, the CPO and the Toll Order (IR 9.446 – IR 10.7), can be found at Annex A to this letter.

Conclusions/Recommendations in the event that planning permission for the proposed bridge is refused

11. The Inspector has recommended that in the light of his conclusions on the planning applications for the proposed bridge that, should his recommendation for their refusal be accepted by the Secretary of State for CLG, the Scheme, the SRO, the CPO and the Toll Order should be not confirmed by the Secretary of State for Transport.

Conclusions/Recommendations in the event that planning permission for the proposed bridge is granted

The Scheme

12. In the event that the Secretary of State for CLG should otherwise grant planning permission for the proposed bridge, the Inspector identifies that amongst the very many general objections to the overall TGB scheme, there are none which are of particular grounds to the Scheme, which he considers should be confirmed, incorporating modifications (identified in Document D859 of the Annex B documents as accompany the Inspector's report) as put forward by TfL ahead of the Inquiries.

The SRO

13. Similarly, there are no objections remaining specifically relating to the SRO provisions. The Inspector has concluded that for those highways which would be stopped up under the authority of the Order, other reasonably convenient alternative routes would be provided, as would alternative provision be made for any class of traffic which would be precluded use of the TGB special roads. In that those particular tests are satisfied by the SRO, in the event that planning permission were to be granted for the proposed bridge, the Inspector sees no reason why the SRO should not be confirmed, subject to modifications (identified in Document D859 and TfL/159 of the Annex B documents as accompany the Inspector's report) being made by the Secretary of State for Transport.

The CPO

14. In the event that planning permission for the main bridge scheme were to be granted, the Inspector concludes that subject to the test of there being a compelling case for the compulsory acquisition of its lands in the public interest and there being justification for interfering with the human rights of those with an interest in the land affected being met, the land included in the Order, as proposed to be modified (as identified in Document TfL/313C/1 of the Annex B documents as accompany the Inspector's report), would be necessary to acquire to implement TfL's plans for construction or operation of the TGB. The Inspector was satisfied that TfL have a clear idea of how the Order lands are to be used and would have available the necessary resources to implement its scheme within a reasonable timescale and that it would be unlikely to be blocked by any impediment to its implementation.

The Toll Order

15. The Inspector concluded that if the Scheme and the Toll Order were to be confirmed by the Secretary of State for Transport, then the latter should be modified in a manner proposed, by Bexley Council, so that the maximum toll charge which it would set per crossing (at 2004 prices), for the period of 40 years beginning with the date of opening of the main special road (as described at (1) (a) (i) above), would be £10.00 for Motor cars, motor cycles and motor caravans; £13.50 for Small goods vehicles; and £21.75 for

Any other vehicles (“the Bexley modified maximum toll”). This modified maximum toll compares with prices £4.00, £5.40, and £8.70, respectively, for those same traffic descriptions under TfL’s original maximum toll included in the made Order (“TfL’s original maximum toll”) and £6.00, £8.10, and £13.05, respectively, under TfL’s own proposed modified maximum toll which it submitted by way of modification to the Order (“TfL’s modified maximum toll”).

16. Whilst TfL’s proposed initial tolls would be set lower (as referred to at paragraph 17 below), the Inspector nevertheless concludes that the maximum tolls allowed by the Toll Order, as TfL itself promotes, will be a necessary means of regulating traffic, as well as contributing to costs of the TGB. There are, however, the Inspector concludes, doubts about the reliability of TfL’s traffic model and whilst errors in traffic modelling are proposed by TfL to be addressed by use of tolls, the scope for that would be limited by TfL’s modified maximum toll.

17. If traffic use of the TGB was 25% higher than TfL’s modelling predictions the Inspector has concluded that TfL’s modified maximum toll would be just adequate to regulate traffic. Any demand greater than 25% or should the model provide insufficiently reliable, would likely confound the position to maintain acceptable regulating (traffic) conditions and, if that arose, likely lead to a revision to the Toll Order with its associated statutory procedures, and perhaps a local inquiry, as well as affording the opportunity for a concessionaire to block any revised maximum toll it considered unacceptable. To markedly reduce any likely occurrence of loss of effective flexibility of the toll arising, the Toll Order should be made in suitable terms which provide greater ability to deal with the unexpected, which might be necessitated by unreliability of the traffic model. This would still permit TfL to charge its actual tolls (which would be subject to review in the light of future information) as proposed :

Proposed Tolls (at 2004 prices)			
	Cars	Light Goods Vehicles	Other Goods Vehicles
<i>Peak Periods (0700 to 1000 and 1600 to 1900 Monday to Friday)</i>			
Full Toll	£3.00	£4.00	£6.50
Discounted toll for local residents	£1.00	£4.00	£6.50
<i>Off-Peak Periods</i>			
Full Toll	£2.00	£2.70	£4.35
Discounted toll for local residents	£1.00	£2.70	£4.35

(IR 4.140)

should that be sufficient, but afford the additional scope for traffic control should the need arise. Accordingly, the Inspector concludes that the Bexley modified maximum toll should, subject to the Secretary of State for Transport first undertaking consultation upon the proposed modification as a substantial change (in accordance with paragraph 7(2) of Schedule 2 to the New Roads and Street Works Act 1991), be the modification made to the Toll Order.

(IR 9.491 – IR 9.497)

THE SECRETARY OF STATE FOR TRANSPORT'S CONSIDERATIONS

18. The Secretary of State for Transport is satisfied that her decisions on the Scheme, the SRO, the CPO and the Toll Order, depend upon the decision of the Secretary of State for CLG on the planning applications for the proposed bridge scheme. Only in the event that such planning permission were to be granted would there be any appropriate basis for her to consider confirming that Scheme and Orders which, as the promoter TfL acknowledges, are interdependent and should not be confirmed independently of each other.

19. The Secretary of State for Transport is satisfied that, in the event that planning permission were to be granted for the proposed TGB, there would be no reason why she should not confirm the Scheme (IR 9.451) and the SRO (IR 9.460), with the modifications as referred to in paragraphs 12 and 13 above.

20. In respect of the CPO she accepts that the Order, as proposed to be modified as referred to in paragraph 14 above, contains only such land which TfL would require to implement or operate its TGB plans and that, subject to planning permission being granted for the proposed TGB, TfL would have a clear idea of how the land would be used and that the scheme would be unlikely to be blocked by any impediment.

21. However, in view of the Secretary of State for CLG deferring her decision on the planning applications for the proposed TGB, as covered at paragraph 22 below, the Secretary of State for Transport, likewise, is unable at this time to come to a view that there would be no impediment to the CPO plans. Furthermore, and like the Inspector (IR 9.474), the Secretary of State for Transport is unable at this time to come to a view as to whether or not there is compelling case for the compulsory acquisition of the land covered by the Order which would justify interfering with the human rights of those with an interest in the land affected.

NEXT STEPS - THE SCHEME, THE SRO AND THE CPO

22. The Secretary of State for CLG has, by letter of today's date, deferred her decision on the planning applications for the proposed TGB and is to consider further evidence at re-opened Inquiries with regard to the Statement of Matters (as is also reproduced at Annex B to this letter) included with her letter. The Secretary of State for Transport has, accordingly, to enable her to reach a considered view as to whether or not the Scheme, the SRO and the CPO should be confirmed by her, decided to defer her decision on the Scheme, the SRO and the CPO and to subject them to the re-opened Inquiries, so that the further evidence which is sought is brought to consideration and reported upon by the Inspector in respect of those matters.

DECISION ON THE TOLL ORDER

23. The Secretary of State for Transport notes that, on the basis of the evidence considered at the Inquiries, the Inspector concludes that the maximum toll charges to be set by the Toll Order should, to obtain a necessary flexibility/scope for traffic control, be set at the higher rate of the Bexley modified maximum toll as is referred to in paragraph 15 above. However, both this and TfL's modified maximum toll as referred to in that paragraph, would depart so significantly from TfL's original maximum toll, that either would constitute a substantial change to the Toll Order and the Secretary of State is satisfied that TfL no longer seeks of her that she consider confirming the Toll Order with its original maximum toll prices.

24. Nor can she come to a view as to which maximum toll prices, whether by way of either of those referred to in paragraph 23 above or any other, TfL might arrive at to itself now promote. Consequently, and in view of the deferral of her decision on the Scheme and Orders, the Secretary of State for Transport is unable to consider at this time making modifications, of a substantial nature (as referred to by the Inspector at IR 9.497), to the Toll Order.

25. Therefore, she considers that TfL should now proceed by way of making a fresh Toll Order, incorporating a revised maximum toll, having regard to the Inspector's conclusions and, if needs be, to reflect any further change which might result from the outcomes of the revised traffic model and its associated traffic implications for the scheme, which information has been called for as detailed at paragraphs i and ii of the Statement of Matters at Annex B.

26. This fresh Toll Order and any representations which were made to it would then be the subject of Inquiry, along with the reopened Inquiries into the planning applications and the Scheme, the SRO and the CPO, and enable the Inspector to report with his conclusions and recommendations and allow for the Secretaries of State to later bring simultaneous decisions upon all those matters.

27. The Secretary of State for Transport has, for reasons set out at paragraphs 23 to 26 above, accordingly decided to not confirm the A2012 GLA Road (Thames Gateway Bridge) Toll Order 2004 and this letter constitutes her decision to that effect.

NOTIFICATION OF THIS DECISION

28. A copy of this letter has been sent to the London Boroughs of Greenwich, Newham, Bexley, Dagenham and Redbridge and Barking, and to those objectors, their representatives and other persons who appeared and made representations at the Inquiries, who have also been sent a copy of the letter of the Secretary of State for CLG, and who will in due course be given Notice of the date, time and place of the reopened Inquiries. A copy of the Inspector's report can be viewed at -

www.gos.gov.uk/gone/transport/transport_casework/

under Local Authority Orders Decisions and titled "Thames Gateway Bridge"

We are Sir
Your obedient Servants



JULIE HUME
Local Authority Orders

Authorised by the Secretary of State
for Transport to sign in that behalf in the matter
of the Scheme, the SRO and the CPO



DR ADAM SIMMONS
Roads Strategy Division

Authorised by the Secretary of State
for Transport to sign in that behalf in the matter
of the Toll Order

**INSPECTOR'S CONCLUSIONS AND RECOMMENDATIONS RELATING TO THE
SCHEME, THE SRO, THE CPO AND THE TOLL ORDER**

THE SPECIAL ROADS SCHEME

- 9.446 The purposes for which the Special Roads Scheme is promoted are outlined in paragraph 1.27 above. Sections 16, 17 and 106 of the HA 1980 do not provide criteria for confirmation, though the Secretary of State is required to give due consideration to the requirements of local and national planning, including the requirements of agriculture. I do not consider that any issue regarding agriculture arises in this case.
- 9.447 The Special Roads Scheme would provide the authority to build a bridge over the navigable waters of the river. Its confirmation is also essential if tolls are to be charged under the Toll Order for crossing the proposed bridge. The ability to charge a toll is essential to the system for controlling the extent of the use of the bridge and the impact of traffic on the surrounding area [4.460].
- 9.448 It is clear from the conclusion I have reached in relation to the main bridge applications that I do not consider that the requirements of local and national planning would be served by the granting of planning permission for the main bridge applications. If the Secretary of State agrees, then I do not see that confirmation of the Special Roads Scheme would be justified. The promoters themselves stated that if planning permission for the TGB is refused, it would be virtually inevitable that the Scheme would not be confirmed [8.70].
- 9.449 **I conclude** that the Special Roads Scheme should not be confirmed.
- 9.450 If, however, the Secretary of State disagrees with my conclusion in relation to the main bridge applications, then I note that no ground of objection specifically relating to the Special Roads Scheme remains outstanding [4.462]. The many general objections to the overall TGB proposal which include an objection to the Special Roads Scheme do not identify any particular ground of objection to that Scheme.
- 9.451 In that event, it seems to me that there would be no reason why the Special Roads Scheme, with the incorporation of the amendments put forward by the promoters on 26 April 2005 before the opening of the inquiry, which are set out in Document D859, should not be confirmed.

THE SIDE ROADS ORDER

- 9.452 The purposes for which the Side Roads Order is promoted are set out in paragraph 4.464 above. The details of the highways which would be improved, stopped up or created, together with the details of the new private means of access which would be created, are set out in the schedules to the Side Roads Order, as amended by Document D859 and by Document TfL/159.

- 9.453 The promoters ask for the Side Roads Order to be confirmed, incorporating the amendments contained in both those documents [4.465].
- 9.454 The Side Roads Order is made under Sections 14, 18 and 125 of the HA 1980. Again, the Act does not provide criteria for confirmation of a Side Roads Order. Before stopping up any highway or private means of access under the Order, however, the Secretary of State must be satisfied that reasonably convenient replacement sections of highway would be provided under the Order for all highways which would be stopped up as required by Section 14(6) of the HA 1980; for all private means of access to be replaced or unnecessary under Section 125(3) of the Act; and for reasonable alternative provision to be available under Section 18(6) of the Act for any class of traffic excluded from a special road.
- 9.455 No existing private means of access to any premises would be affected by the Order [4.468]. Compliance with the other points listed above has not been challenged by any objector.
- 9.456 Subject to those points, the relevant test for confirmation is whether it is appropriate to confirm the Order, balancing any public or private disadvantages against any public benefits.
- 9.457 It is clear from the conclusion I have reached in relation to the main bridge applications that I do not consider that it would be appropriate to confirm the Order, balancing public and private disadvantages against public benefit. If the Secretary of State agrees, then I do not see that confirmation of the Side Roads Order would be justified. The promoters themselves stated that if planning permission for the TGB is refused, it would be virtually inevitable that the Order would not be confirmed [8.70].
- 9.458 **I conclude** that the Side Roads Order should not be confirmed.
- 9.459 If, however, the Secretary of State disagrees with my conclusion in relation to the main bridge applications, then I note that no reasoned ground of objection specifically relating to the Side Roads Order remains outstanding. The many general objections to the overall TGB proposal which include an objection to the Side Roads Order do not identify any particular ground of objection to that Order.
- 9.460 In that event, it seems to me that there would be no reason why the Side Roads Order, with the incorporation of the amendments put forward by the promoters on 26 April 2005 before the opening of the inquiry which are set out in Document D859 and those contained in Document TfL/159 should not be confirmed.

THE COMPULSORY PURCHASE ORDER

- 9.461 The legal tests against which the Compulsory Purchase Order falls to be considered are, first, whether all the land is required for the proposed construction or operation of the TGB; and, secondly, whether the acquisition falls within the statutory powers under which TfL seek to acquire the land. These are Sections 239, 240, 245, 246, 249, 250 and 260 of HA 1980. They cover the acquisition of land and rights over land for the

construction or improvement of a highway, land to provide buildings or facilities in connection with a highway, mitigation land, and land to be provided in exchange for open space land acquired.

- 9.462 ODPM Circular 06/04, the current Government guidance on compulsory purchase, does not apply to this scheme, because of the transitional provisions contained in paragraph 4 of that Circular and paragraph 9 of Part 1 of the Memorandum to the Circular. TfL have indicated, however, that they would accept the recommendation contained in paragraph 4 of Part 2 of the Memorandum to Circular 06/04, in that TfL would offer back to any dispossessed freeholder or long leaseholder under the revised Crichel Down Rules land acquired compulsorily if, in the longer term, continuing ownership of the land was not necessary for the scheme [4.471].
- 9.463 The guidance which does apply to this scheme is contained in ODPM Circular 02/03 [4.472]. That Circular requires that there is a compelling case for compulsory acquisition of the land covered by the Order in the public interest; that this justifies interfering with the human rights of those with an interest in the land affected; that the acquiring authority have a clear idea of how the land covered by the Order would be used; that all necessary resources to carry out the plans are likely to be available within a reasonable timescale; and that the scheme is unlikely to be blocked by any impediment to implementation.
- 9.464 If the Secretary of State accepts my conclusion that planning permission for the main bridge applications should not be granted, then it would not be possible for the proposed bridge to be built. The scheme would therefore be blocked by the most fundamental possible impediment to implementation.
- 9.465 **I conclude**, therefore, that the Compulsory Purchase Order should not be confirmed.
- 9.466 If the Secretary of State were to take a different view in relation to the main bridge applications and to grant planning permission, then the other tests in relation to the Compulsory Purchase Order would fall to be considered. I therefore express an opinion on them here.
- 9.467 The promoters seek to acquire the freehold interest and all subsidiary interests in the land required for the footprint of the road infrastructure which is not already within their ownership. In addition, the Order covers a 5m strip of land adjacent to the bridge in order to provide access for its future maintenance and repair. The extent of the land covered by the Compulsory Purchase Order is therefore determined primarily by the design of the road [4.474 to 4.479].
- 9.468 In addition, however, [4.477] sufficient land has been included within the Order:
- a. to permit some design flexibility in the position of the bridge piers for the main bridge over the River Thames.

- b. to provide exchange open space land to replace public open space on the south eastern bank of the river in Greenwich required for the scheme.
- c. to provide reasonable temporary work sites for the contractor. These are necessary to avoid foreseeable delay to the construction programme which might arise if a landowner found it possible to seek ransom payments from a contractor for working space.
- d. to provide mitigation of the impact of the scheme, for example by landscaping.

9.469 I consider that all the land and interests in land covered by the Compulsory Purchase Order as now put forward for confirmation by the promoters would be required for the proposed construction or operation of the TGB including the purposes listed above, and the acquisition of all of it would be within the statutory powers upon which the promoters rely.

9.470 During the course of the inquiry, the promoters continued to negotiate with owners of land within the Compulsory Purchase Order, and, as a result, some amendments to the Order are sought by the promoters which would reduce the total land covered by the Order as indicated at paragraph 1.29 above. Document TfL/313C/1 shows the Order in the form in which TfL now ask for it to be confirmed. This includes some small parcels of land which were not covered by the Order as originally drafted. In each case, the consent of the owner of the land to its inclusion in the Order has been obtained. The detailed reason for each variation from the original Order is set out in Document TfL/313B. That Document also includes the agreement of the owners of additional parcels of land to their inclusion in the Order [4.479].

9.471 If planning permission is granted for the bridge, it could not be built without the compulsory purchase of the necessary land.

9.472 The Order would necessitate the acquisition of some private interests in land, but, by negotiation, its impact on individuals has been minimised. All statutory objections to the Order have been withdrawn [4.481]. The only remaining reasoned objection to the Compulsory Purchase Order comes from Mr B Martin, and is reported at paragraph 6.1753 above. Given the conclusion I have reached regarding the potential impact of the proposed scheme on flora and fauna and conservation sites at paragraph 9.256 above, and given the provision that the promoters would propose to make for replacement open space, if the Secretary of State were to grant planning permissions for the construction of the proposed bridge, I do not consider that Mr Martin's objection to the Compulsory Purchase Order should be sustained.

9.473 There would be no acquisition of residential property under the Order, nor would any commercial building be acquired. Only one small building would be demolished, a derelict World War II pill box [4.482].

9.474 If the Secretary of State were to conclude that planning permission for the main bridge applications should be granted, it would be necessary to consider the question whether there was a compelling case for the

compulsory acquisition of the land covered by the Order in the public interest, and whether this justified interfering with the human rights of those with an interest in the land affected.

- 9.475 Subject to those points, I consider that the acquiring authority would have a clear idea of how the land covered by the Order would be used; that the resources to carry out the scheme would be likely to be available within a reasonable timescale [4.448 to 4.454]; that the scheme would be unlikely to be blocked by any impediment to implementation [4.484]; and that the scheme could be resourced and completed within a reasonable time [4.483].
- 9.476 There was no substantial challenge to the evidence of the promoters on these points.

THE TOLL ORDER

- 9.477 The New Roads and Street Works Act 1991 does not set out any criterion for the making by TfL or the confirmation by the Secretary of State of the Toll Order. It is sufficient if the Secretary of State is satisfied that it is appropriate to confirm the Order [4.493].

- 9.478 If (but only if) the Special Roads Scheme is confirmed, so that the TGB becomes a "special road", then the Secretary of State must also confirm the Toll Order. Section 6(5) of the New Roads and Street Works Act 1991 provides that

"The Secretary of State shall not make or confirm the scheme or the toll order unless he makes or confirms them both." [4.494].

- 9.479 Given that I have concluded that the Special Roads Scheme should not be confirmed, it follows that **I conclude** that the Toll Order should also not be confirmed.

- 9.480 Against the possibility that the Secretary of State might reach a different conclusion in relation to the Scheme, however, I go on to consider the Toll Order and the objections to it in greater detail.

- 9.481 The Toll Order would empower TfL to charge tolls for the use by specified vehicular traffic of the scheme up to maxima established by the Order in terms of 2004 prices, adjusted by a formula set out in the Order. TfL propose two modifications to the Order. That set out in TfL/214 would raise the original maximum tolls (that is, the 2004 prices). The modification set out in TfL/332 would rectify a drafting error in the Order. The purposes of the tolls are to regulate traffic on the bridge and to contribute towards its cost [4.134], and it seems to me that both would be necessary parts of the scheme proposals. TfL expect in practice that the tolls set would be lower than the maxima provided by the Order, and they would monitor and if necessary vary the tolls from time to time following consultation with the BCG [4.135].

- 9.482 Those who objected to the tolls did so for various reasons, and I consider each in the following paragraphs. There were also issues raised by

objectors regarding the proposed toll discount area, which I have dealt with in considering the regeneration case.

- 9.483 *The objection that tolls would discriminate particularly against poorer people, contrary to the regeneration objective of the scheme* [6.969, 6.1037]. Residents of the discount area who used the bridge to drive to work would pay £1 per crossing at 2004 prices [4.140], equivalent to £10 per 5-day working week. It is indisputable that this would weigh more heavily on lower paid motorists. But the regenerative effect of the scheme would probably include some new jobs on each side of the river [4.390], and this would offset such disadvantage to a degree.
- 9.484 *The objection that the tolls may be removed at some time in the future, and the control on traffic they would provide would be lost* [6.1036]. Since there is no power in law to include a minimum toll in a Toll Order [4.135], this objection could not be met by modification of the Order. But it seems to me that the network management duty imposed by the Traffic Management Act [4.135] introduces an appropriate control on TfL's future actions in this regard.
- 9.485 *The objection that the Boroughs Agreement (TfL/22C) should set out the criteria to be considered when tolls are set* [6.47]. In its executed form, the Boroughs Agreement does contain in clause 6.2 and Schedule 9 a list of matters which would be considered (along with all other relevant matters) in determining the tolling regime. It seems to me improbable that a completely comprehensive and exclusive list of circumstances that would remain appropriate until about 2053 could be formulated now. I do not consider that the absence from the Boroughs Agreement of an definitive list of criteria is an obstacle to confirmation of the Toll Order.
- 9.486 *The objection that the tolls would create an incentive for the concessionaire to maximise revenue by maximising traffic on the bridge* [6.861, 6.1640]. Tolls would be set by TfL following consultation with the BCG [4.433, 4.451]. The concessionaire's actions to maximise revenue would be the same as the good management of any other road, by maintaining availability [6.937]. This is not at odds with the objectives of the scheme.
- 9.487 *The objection that a toll alone could not effectively control traffic volumes* [6.862]. Parallels were drawn with the M6 toll road, objectors arguing that experience there shows tolls to be an unreliable demand management tool [6.862] and the promoters arguing that it does not [4.142]. But the promoters' assessment of the effect of tolls at the scheme relies on equivalences of travel time and cost produced by Transport Research Laboratory for general use in such cases [4.119], and I therefore attribute considerable weight to its method and to the consequent proposition that tolls are an effective instrument to control traffic volumes. This view is implicitly accepted by those who argue that the change in the proposed discount area made during the inquiry would affect use of the bridge.
- 9.488 *The objection that, since low tolls would generate little income and high tolls would deter traffic, tolls would generate insufficient revenue to fund the scheme* [6.1318]. The promoters' evidence on the financing of the scheme [4.451] illustrates, on the basis of a considered analysis, that tolls

would contribute adequately to its overall cost and there is no evidence to the contrary.

- 9.489 *The objection that the formula in the Order would not be sensitive to use of the bridge by non-local traffic* [6.3]. The formula in the Order would establish the maximum toll, but would not establish the actual toll or the amount or application of any discount for local traffic. Those would be set by TfL following consultation with the BCG [4.135] and could allow for differential charges for long distance and local traffic on the bridge. Registered local traffic would be routinely identified by the toll collection system [4.139], and it seems to me that this would allow the collection of sufficient information to establish adequately the degree of use of the bridge by unregistered, non-local traffic. Provided that the maximum toll was set high enough, if an unexpectedly high level of non-local traffic was found to use the bridge, then that situation could be addressed by raising the toll for such users.
- 9.490 *The objection that the proposed tolls would operate unfairly on motorcyclists* [6.1742 to 6.1744]. TfL wish to wait until just before the proposed bridge opens before deciding whether to impose a toll on motorcycles, and, if so, at what level [4.491]. As presently drafted, the Toll Order would impose the same level of toll on motorcycles as on cars and motor caravans [4.135, 4.140]. The Order would allow, however, for different levels of toll to be imposed on different classes of traffic [4.488]. Motorcycling interests claim that it is almost unprecedented in UK for motorcycles to be charged at the same level as cars, and that, in many situations in which tolls apply, motorcycles are exempt from any charge at all. The Central London Congestion Charge is a case in point, as is the toll regime at the Dartford Crossing [6.1742]. Government policy is broadly supportive of motorcycles [6.1743], and no evidence has been adduced to support making the same charge for a motorcycle as for a car [6.1742]. I understand the concern of those representing motorcyclists to resolve this issue now. I do not accept, however, that it should be resolved in the way they seek (by exemption from the toll). I consider that it is important to allow the promoters of the TGB scope to react to any situation which might apply in the future of a charge being made for motorcycles at Dartford. If a charge were to be introduced there, and if there were no possibility of charging for motorcycles on the TGB, this could lead to many more motorcyclists deciding to use the TGB in preference to the Dartford Crossing, with consequent loading of motorcycle traffic on the TGB and the roads serving it to a much greater extent than currently envisaged or predicted. With some reluctance, therefore, I conclude that no amendment should be made to the Order to exempt motorcycles from the toll. I consider that the issue should be left to be determined as the promoters suggest.
- 9.491 *The objection that the proposed tolls would be too low* [6.45, 6.1162]. Bexley Council's proposal for the maximum toll for cars etc. and its pro rata application (as Bexley Council suggest) for other types of vehicle are compared in the following table with the promoters' original proposals set out in the Order and the promoters' modified proposals:

Comparison of toll proposals (July 2004 prices)				
Description of traffic	Original Maximum Toll			Promoters' proposed initial peak period non-discounted toll
	TfL original (published Order)	TfL current [4.135]	Bexley Council [6.45]	
Motor cars, motor cycles and motor caravans	£4.00	£6.00	£10.00	£3.00
Small goods vehicles	£5.40	£8.10	£13.50	£4.00
Any other vehicles	£8.70	£13.05	£21.75	£6.50

- 9.492 The promoters derive their tolling proposals from their assessment of traffic behaviour, for which they use the traffic model. But the traffic model is in my view of limited reliability, as I indicate above. The promoters intend that errors in the modelling would be addressed by use of the tolls to regulate traffic, but the scope to do that would be limited by the maxima allowed by the Toll Order. If 25% more traffic sought to use the bridge than the promoters expect, then TfL expect that the maximum tolls they propose would be just adequate to regulate traffic [4.145].
- 9.493 If such a case arose and the model were to prove insufficiently reliable, or if an increase in demand greater than 25% above TfL's expectations arose, then the view that acceptable conditions could be maintained might be confounded. There would then arise the need for a revision of the Toll Order, requiring statutory procedures and possibly a local inquiry. This would take time, and detract from the flexibility which such circumstances could demand and which the promoters and Bexley Council consider necessary. It would also offer the opportunity for a concessionaire to block any revised maximum toll not considered to be acceptable [6.46].
- 9.494 The possibility of such a loss of effective flexibility arising would be markedly reduced if the Toll Order were made in such terms as to provide greater ability to accommodate the unexpected, which might be necessary in view of the lack of reliability of the traffic model. This would not prevent the charging of actual tolls as proposed by the promoters, should that be sufficient; but it would provide additional scope for traffic control if the need arose. It therefore seems to me that, if the Order were to be made, the modification to the Original Maximum Tolls in the Toll Order suggested by Bexley Council should be incorporated in the Order.

- 9.495 Paragraph 7(2) of Schedule 2 to the New Roads and Street Works Act (D210) refers to cases in which substantial changes to an advertised Toll Order would be incorporated in the made or confirmed Order. The modification proposed by the promoters would increase the maximum allowed tolls by 50%, and that proposed by Bexley Council would do so by 150%. It seems to me that either of these changes would be substantial.
- 9.496 If it is considered that the Toll Order should be confirmed, it would be necessary to weigh the need for the traffic regulation and income generation that the tolls would allow in the context of the scheme against the disadvantage that the proposed toll regime would have for those poorly paid motorists who would need to drive their cars across the bridge to work. Whatever the overall degree of regeneration facilitated by the scheme, it seems to me that such disadvantage would be likely to be small in comparison to the need that the tolls would satisfy.
- 9.497 I consider that, provided the Special Roads Scheme is confirmed, and it is concluded that the A2012 GLA Road (Thames Gateway Bridge) Toll Order 2004 should similarly be confirmed, the Toll Order should be modified as set out in the following table and as requested by the promoters in Article 4(3), and then confirmed, subject to the requirements of paragraph 7(2) of Schedule 2 to the New Roads and Street Works Act.

In Article 4(1), leave out the table and insert the following table:	
Description of traffic (1)	Original maximum toll for one way use of the new road at July 2004 prices (2)
a) Motor cars, motor cycles and motor caravans	£10.00
b) Small goods vehicles	£13.50
c) Any other vehicles	£21.75

Environmental information

- 9.498 In coming to conclusions on the applications, the Scheme and Orders before the inquiry, I have had regard to the environmental information contained in the ES and its three Addenda [1.24 to 1.26], to the comments on it from the statutory consultees and members of the public, to the mitigation measures proposed [8.42], and also to the environmental information derived from evidence given at the inquiry and contained in representations to the inquiry.

10 RECOMMENDATIONS

10.1 I recommend that planning permission be refused for application ref: P/04/1170.

10.2 I recommend that planning permission be refused for application ref: 04/1800/F.

10.3 I recommend that planning permission be granted for application ref: P/05/0428, subject to the conditions set out in Appendix E to this report.

10.4 I recommend that the A2012 GLA Road (Thames Gateway Bridge) Special Roads and Bridge Scheme 2004 be not confirmed.

10.5 I recommend that the A2012 GLA Road (Thames Gateway Bridge) (Side Roads) Order 2004 be not confirmed.

10.6 I recommend that the A2012 GLA Road (Thames Gateway Bridge) Compulsory Purchase Order 2004 be not confirmed.

10.7 I recommend that the A2012 GLA Road (Thames Gateway Bridge) Toll Order 2004 be not confirmed.

Michael Ellison

INSPECTOR

Statement of Matters**[upon which the Secretary of State for Communities and Local Government has asked to become informed before taking her decision on the planning applications]**

The Secretary of State particularly wishes to be informed of the following matters:

- i. A revised traffic model setting out the traffic implications of the scheme, to take account of at least the following changes since the close of the public Inquiry:
 - proposed changes to the Dartford Toll Crossing and any other proposed tolls that the applicant considers is likely over the next 5 years;
 - the end of "tidal flow" at Blackwell Tunnel, announced by the applicant on 18 April 2007; and
 - the changes to the Department for Transport's Webtag guidance on the appraisal of road schemes, and in particular The Greenhouse Gases Sub-Objective, Unit 3.3.5.

The Secretary of State considers that, in revising the model, the applicant should have regard to the Inspector's conclusions set out in paragraphs 9.38-9.64 of his report;

- ii. Given that the revised traffic model impacts on the proposed regeneration benefits, the Secretary of State requires an updated assessment on the regeneration benefits. The Secretary of State expects that the scheme should take into account not only the results of the traffic modelling, but should also take account of the Inspector's views set out in IR9.292-9.294 that the revised modelling scheme should be assessed against the standards set out in Webtag;
- iii. An assessment of changes in environmental policies and plans since the earlier inquiry, including:
 - The Mayor's Climate Change Action Plan, published in February 2007;
 - the supplement to Planning Policy Statement 1, "Planning and Climate Change", which was published for consultation in December 2006; and
 - the decision by Bexley Council to designate the London Borough of Bexley as an Air Quality Management Area in respect of the pollutants nitrogen dioxide and fine particles (PM₁₀), using powers under Section 83 of the Environment Act 1995;
- iv. An updated Environmental Statement;
- v. Whether the proposed development accords with the adopted and emerging development plan policies having regard to the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, including the proposed further alterations to London Plan Policies 3C.14 and 3C.15. In particular the Secretary of State notes the strategic support given to the Thames Gateway Bridge by policy 3C.14 of the London Plan, which states that the Thames Gateway Bridge should achieve regeneration benefits and incorporate high environmental standards. The Secretary of State wishes the applicant to provide further advice on this point; and
- vi. An assessment of any other key changes in the relevant planning, transport and environment policy background since the earlier inquiry, which the applicant considers should be brought to the attention of the Secretary of State to enable her to determine the application.