

DEPARTMENT FOR TRANSPORT

GUIDANCE NOTES FOR LOCAL PLANNING AUTHORITIES RELATING TO THE SAFEGUARDING DIRECTIONS FOR DEVELOPMENT AFFECTING THE ROUTE AND ASSOCIATED WORKS PROPOSED BY TRANSPORT FOR LONDON FOR THE BAKERLOO LINE EXTENSION

Background

- 1 Transport for London (TfL) is proposing to extend the Bakerloo Line to Lewisham via Old Kent Road and New Cross Gate. The extension comprises:
 - (a) New stations at Elephant & Castle, Old Kent Road (two stations), New Cross Gate and Lewisham;
 - (b) New tunnels between Lambeth North and Elephant & Castle and between Elephant & Castle and Lewisham;
 - (c) A new shaft at a site off Lewisham Way at Alexandra Cottages, between New Cross Gate and Lewisham station;
 - (d) Train stabling to be provided at a site off Wearside Road south of Lewisham town centre; and
 - (e) The use of a site at New Cross Gate as a primary worksite (as well as for a new station) and the use of a site in the Old Kent Road as a secondary worksite (as well as for a new station).

- 2 TfL carried out consultations on its proposals in Autumn 2014, Autumn 2017, and Autumn 2019. The Secretary of State for Transport has now issued Safeguarding Directions (the “Directions”) under articles 18(4), 31(1) and 34(8) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the “**Order**”) to safeguard the proposed route alignment.

- 3 The land referred to in the Directions comprises:
 - (a) land designated on the plans as “Area of Surface Interest” being the surface sections of the proposed line, additional land that may be required permanently or temporarily for works such as drainage, road diversions and environmental protection measures, construction sites, spoil disposal sites, ventilation shafts, intervention and escape shafts and land above tunnels in the vicinity of tunnel portals and stations; and
 - (b) land containing sections of tunnel and other sub-surface works designated on the plans as “Area of Subsurface Interest”.

Processing of applications

- 4 Applications for planning permission on which TfL must be consulted, in accordance with paragraph 5 of the Directions, should be sent by the local planning authority by first class post to:

The Safeguarding Manager
Bakerloo Line Extension
TfL Railway Searches
Transport for London
5 Endeavour Square
4th Floor
Stratford
London E20 1JN

Or by e-mail to:

RailwaySearches@tfl.gov.uk

- 5 Any applications sent to TfL under paragraph 5 of the Directions will be considered by TfL in the context of determining whether the application affects the construction or operation of the proposed Bakerloo Line extension or lead to excessive additional cost in constructing or operating the extension.
- 6 Where an application does not include sufficient information to allow TfL to determine whether the development would affect the construction or operation of the Bakerloo Line extension TfL will notify the local planning authority without delay setting out what additional information is needed and why.
- 7 Applications subject to the Directions must not be determined before the expiry of the period for consultation set out in article 18(5)(b) of the Order (21 days). Where TfL has not responded within the period set out in article 18(5)(b) of the Order the local planning authority may determine that application. Where TfL has responded, the local planning authority is not bound by TfL's recommendation. However, if it does not propose to follow the recommendation, the local planning authority will be required to notify the Secretary of State for Transport under paragraphs 6 and 7 of the Directions.
- 8 Where planning permission is refused by the local planning authority due to a conflict with the Bakerloo line extension project, the decision notice should refer to that conflict as a reason for refusal. Copies of all decisions on planning applications on which TfL has been consulted should be emailed or sent to the Safeguarding Manager using the contact information given in paragraph 4 of this guidance note.
- 9 In some cases applications for planning permissions are "exempt applications" in which case the Directions do not apply to them. An exempt application is defined in paragraph 4 of the Directions. In summary an application is exempt if does not involve nor is likely to involve any

works more than 2 metres below existing ground level and no part of the proposed development falls within an Area of Surface Interest. In addition, for any such application to be exempt, the local planning authority, if it proposes to grant planning permission pursuant to the application, must impose a condition that precludes any works being carried out more than 2 metres below existing ground level. TfL will provide local planning authorities with a standard form of wording that can be used for this purpose.

- 10 It would be helpful if local planning authorities advise TfL of the outcome of any application upon which it has been consulted under the Directions and upon the outcome of any application to discharge a condition or conditions under a planning permission granted pursuant to such an application by providing TfL with a copy of the relevant decision notice. A copy of the decision notice should be emailed or sent to the Safeguarding Manager using the contact information given in paragraph 4 of this guidance note.
- 11 In accordance with paragraphs 6 and 7 of the Directions, if a local planning authority is minded to grant a planning permission against the recommendation of TfL given pursuant to the Directions, that application should be sent by the local planning authority together with the material referred to in paragraph 7 of the Directions, by first class post to the Secretary of State for Transport at the following address:

Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

And by email to:

DfT.Ministers@dft.gov.uk

- 12 The Secretary of State will inform the relevant local planning authority of the date of receipt of the application and the material required under paragraph 7 of the Directions and will, within 21 days, either notify the authority that he does not intend to take any further action in respect of

the application or issue directions restricting the granting of permission specifically for that application.

- 13 If the Secretary of State has not given any notification within the 21 day period mentioned in paragraph 11 above then the local planning authority may proceed to determine the application as it thinks fit.

Blight notices

- 14 The provisions of the Town and Country Planning Act 1990 on blight notices may be relevant to property affected by the Directions. The appropriate authority to receive blight notices is TfL. Blight notices should be addressed to TfL, at the address mentioned in paragraph 4 above.
- 15 Further details of the provisions and how to complete the prescribed form can be obtained from the Safeguarding Manager at the address in paragraph 4 above.

Purchase notices

- 16 The provisions of the Town and Country Planning Act 1990 on purchase notices may be relevant to property affected by the Directions. The relevant London Borough would be the recipient of such a notice

Planning and local land charges

- 17 In accordance with article 40(4)(b) of the Order, particulars of the Directions in respect of any applications for planning permission to which they apply must be entered in Part 2 of the register of applications for planning permission. The DfT considers that the Directions should be revealed in response to Optional Enquiries sent with requisitions for searches of the local land charges register in relation to land and property:
- (a) within any land within the areas marked as “Area of Surface Interest” and/or “Area of Subsurface Interest” on the plans mentioned in paragraph 3 of the Directions; and
 - (b) within 100 metres of any area marked “Areas of Surface Interest” on the plans mentioned in paragraph 3 of the Directions.
- 18 TfL suggests that, in response to the appropriate question in Part 1 of the Standard Enquiries, local planning authorities respond along the following lines as applicable:
- (a) The property is/is not within the areas marked “Area of Subsurface interest” on the plans annexed to the Safeguarding Directions dated 1 March 2021; and/or
 - (b) The property is/is not within 100 metres of any of land within the areas marked “Area of Surface Interest” on the plans annexed to the Safeguarding Directions dated 1 March 2021.

Consultation on permitted development

- 19 The Directions do not apply to proposals to carry out permitted development. However, TfL would find it helpful to be informed of proposals to carry out works under article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 within the Areas of Surface Interest.

Existing planning permissions

- 20 It would be helpful for TfL to be informed by the relevant local planning authority about any existing planning permissions affecting land within the safeguarded areas which have not yet been implemented.

Pending planning applications

- 21 The Directions apply to any planning application in respect of which a decision notice has not been issued by the date that the Directions come into force, other than to exempt applications as referred to in paragraph 4 of the Directions. Accordingly, local planning authorities must review all pending applications to determine whether any such application is subject to paragraph 5 of the Directions.

Local Plans

- 22 In preparing or revising any local plan (within the meaning of regulation 6 of The Town and Country Planning (Local Planning) (England) Regulations 2012) we advise that the area safeguarded by the Directions should be identified in the new or revised document. In those cases local planning authorities should indicate the area or areas subject to the Directions on the policies map and should not include any proposals in their local plan that conflict with the Directions.
- 23 If a local plan designation was promoting for example a development site, then when a subsequent planning application was submitted for that development the conflict with the safeguarded area should be addressed without the need to amend the local plan allocation. Any conflicts with the Directions on a policies map should be considered when the local plan is revised.
- 24 Local plans should state that the Directions have been made by the Secretary of State for Transport. The Directions are not made by the local planning authority and the obtaining of the necessary consents for the Bakerloo Line extension will not be determined through the development plan process.
- 25 Where the local plan has been submitted for independent examination, the local planning authority should record any representations received which relate to the Directions and bring these to the attention of the inspector appointed to hold the examination of a local plan. The

inspector's role is to consider the policies of the local planning authority set out in the draft local plan. If the inspector is satisfied that an objection is solely to matters covered by the Directions, rather than to proposals of the local planning authority, the inspector is unlikely to consider the objection to be relevant to consideration of the local plan.

- 26 Local planning authorities, when adopting supplementary planning documents should note in the statement of consultation any representations received which relate to the Directions.

Timing

- 27 The Directions come into force on 1 March 2021.

- 28 Further information on the Bakerloo Line extension can be obtained from:
<https://consultations.tfl.gov.uk/tube/bakerloo-extension/>

1 March 2021.

Department for Transport