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27 September 2008

Dear Mayor Johnson,

## **Consultation on the future of the Congestion Charge Western Extension (CCWE)**

### **Keep the Congestion Charge Western Extension or an even tougher, additional, inner Low Emission Zone will be needed by early 2010**

This response to Transport for London's (TfL's) public consultation on the future of the Congestion Charge Western Extension (CCWE), which is due to close on 5 October 2008, is sent on behalf of the Campaign for Clean Air in London (CCAL). See:

<http://www.tfl.gov.uk/roadusers/congestioncharging/17094.aspx>

In your letter to CCAL, dated 31 July 2008, you requested that CCAL submit a formal response to this consultation in September.

### **Summary**

Government maps, recently published by CCAL, highlight yet again, that road transport is the biggest single cause of all breaches of air quality laws across London. The solutions needed involve two overlapping 'circles' of measures – one for congestion (since vehicles are about half as polluting once they reach speeds of 30 kilometres per hour) and the other for emissions (such as low emission zones) – that target the most polluting vehicles in the most polluted areas.

CCAL urges the Mayor of London (the Mayor) to keep the CCWE primarily on the grounds that traffic levels would rise significantly without it, leading to increased pollutants from vehicles. In CCAL's view, it would be foolish of the Mayor to remove the CCWE when he would then need to toughen further additional measures, such as one or more additional inner low emission zones, that are already long overdue to reduce sharply hazardous vehicle emissions to comply with air quality laws in the same area of London.

CCAL urges the Mayor to pursue vigorously stronger measures to reduce congestion across London. Instead of weakening (or removing the CCWE), the Mayor should build on the current 'blunt instrument' by offering dynamic (or 'intelligent') road pricing, such as 'tag and beacon' or better, in parallel with the current CCWE and Congestion Charge Central (CCC). This would give people the choice of paying a fixed congestion charge or opting to pay a flexible charge i.e. such that they might pay nothing to drive short distances outside the hours of congestion. In due course, once dynamic road pricing is shown to work well, it should take over fully from the current 'blunt' scheme and be extended to operate, where necessary, across London.

CCAL is concerned that a relatively small number of vehicle owners, who are primarily responsible for congestion, are - at little or no cost to themselves - having a disproportionate, negative impact on the health of hundreds of thousands of Londoners. Those causing congestion should pay the full environmental cost of their actions as part of a much wider 'polluter pays' strategy in London. CCAL supports measures to reduce congestion, in their own right, as a means of increasing road capacity and improving quality of life for the vast majority of Londoners.

Last but most importantly, CCAL emphasises the need for the Mayor to work closely with the government to implement measures urgently to ensure that air quality laws are fully complied with throughout London not just in the CCWE area.

## **Congestion and emissions measures are both needed to improve air quality in London**

The government has admitted that road transport is the cause of all the breaches of air quality laws in the United Kingdom (UK) with diesel emissions being by far the biggest single component. The solutions needed involve two overlapping 'circles' of measures – one for congestion and the other for emissions – that target the most polluting vehicles in the most polluted areas with technology-based solutions and create a 'tipping point' of behavioural change backed by awareness, persuasion, incentives and regulation (when necessary). Behavioural change offers the most cost effective solutions.

In CCAL's view, the package of measures needed to reduce emissions to comply with air quality laws (which are based on World Health Organisation (WHO) recommendations) must include one or more additional inner Low Emission Zones (LEZs) operating in London by early 2010 (since an LEZ directly targets air pollution and makes the 'polluter pay'). In general, it or they should target all the most polluting vehicles in the most polluted areas in order to minimise and share the necessary costs. Dozens of other cities around Europe are introducing similar schemes in order to comply with the same laws. See: <http://www.lowemissionzones.eu/>

In CCAL's view, measures to reduce congestion are needed also to tackle the most polluted areas of London since hazardous emissions fall sharply as vehicles move faster. Department for Transport (DfT) data shows that most vehicles emit about half the carbon dioxide (CO<sub>2</sub>) and hazardous emissions once they reach speeds of 30 kilometres per hour. Vehicles causing congestion are therefore some of the biggest polluters. CCAL supports measures to reduce congestion, in their own right, as a means of increasing road capacity and improving quality of life for the vast majority of Londoners.

## **Air quality laws**

It is the responsibility of the Mayor and the government to be aware of, and comply fully with, all

applicable laws. The government has specific duties under air quality laws on behalf of the UK as a Member State. CCAL wishes to draw your attention to the following:

- i. The Mayor has a duty to 'work towards' the Limit Values: The Mayor of London has a statutory duty to 'work towards' the Limit Values for particulate matter (PM<sub>10</sub>) and nitrogen dioxide (NO<sub>2</sub>). The Supplementary Information document for the CCWE consultation states on page 27 that the impacts on the CCWE area of returning traffic in 2010 'are estimated [at] around 5 per cent more NO<sub>x</sub> [oxides of nitrogen], 7 percent more PM<sub>10</sub> and 8 percent more CO<sub>2</sub> [carbon dioxide]'. In CCAL's view, the Mayor would breach this statutory duty if he removed the CCWE without fully offsetting measures being in full operation.
- ii. The UK has a duty to achieve the Limit Values by deadlines: The UK has breached air quality laws in London for PM<sub>10</sub> in each of 2005, 2006 and 2007.

The government plans to apply for a time extension until 2011 to meet these obligations, as it is allowed to do under the EU directive on ambient air quality and cleaner air for Europe (the AQ Directive), which entered into force on 11 June 2008. To obtain such a time extension and avoid imminent legal action, the UK would need, amongst other things, to produce credible plans showing how it would eliminate all breaches of Limit Values for PM<sub>10</sub> by 2011. If a time extension for PM<sub>10</sub> is allowed by the European Commission (EC), Article 22 of the AQ Directive states that the UK must ensure that the Limit Value plus Margin of Tolerance is not exceeded in any circumstances i.e. average annual PM<sub>10</sub> levels must never exceed 48 micrograms per cubic metre (µg/m<sup>3</sup>). Daily average exceedances are also limited.

The government maps obtained by CCAL show that Brompton Road and Knightsbridge in the CCWE area are currently still expected to be in breach of air quality laws for PM<sub>10</sub> in 2011. In CCAL's view, measures to reduce congestion (such as the CCWE) and emissions are both needed to eliminate these breaches of air quality laws.

The EC, seeking to enforce WHO based air quality laws, has asked Member States (including the UK) to provide information by 30 September 2008 on the steps they are taking to achieve compliance with air quality laws for PM<sub>10</sub>. The EC has stated further that failure either to achieve compliance with the standard or to submit notifications by 31 October 2008 for a time extension will lead to legal action against the Member State concerned. See:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1112&format=HTML&aged=0&language=EN&guiLanguage=en>

In CCAL's view, the Mayor would show disregard for air quality laws if the removal of the CCWE is pursued when neither he nor the government have yet shown how air quality laws for PM<sub>10</sub> (or NO<sub>2</sub>) will be complied with in the CCWE area and throughout London. CCAL wrote to the EC on 5 May 2008 on this subject copying you.

- iii. The UK has a duty to maintain air quality once the Limit Values are met: The UK has an obligation under Council Directive 1999/30/EC/Article 1 to 'maintain ambient air quality where it is good and improve it in other cases with respect to sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particular matter and lead'. This obligation has been

transposed into UK law in the Air Quality Limit Values Regulations 2003 in Regulation 15, paragraph 2 (see page 8). By referring in the latter to 'zones' the government may not have been transposed correctly – with that mistake alone, perhaps exposing the UK to infringement action by the EC. This directive is repealed by the new AQ Directive with effect from 11 June 2010.

The excellent London Air Quality Network website shows that average annual PM<sub>10</sub> in Cromwell Road fell from just on the Limit Value in 2006 (i.e. 40 µg/m<sup>3</sup>) to 35 µg/m<sup>3</sup> in 2007 (and 34 µg/m<sup>3</sup> so far in 2008). 2007 included nearly 11 months of the CCWE in operation. The number of days exceeding 50 µg/m<sup>3</sup> fell from 60 to 26 in the same period (with the Limit Value for exceedances being 50) i.e. that section of Cromwell Road moved from non-compliance to compliance for PM<sub>10</sub> in 2007.

In CCAL's view, the government has a clear statutory duty (and obligation as a Member State) inter alia to ensure that PM<sub>10</sub> air pollution does not rise again above the Limit Values in the CCWE where it has fallen below these levels – as it surely would if road pricing was removed from that area (unless simultaneously other measures were put in place to mitigate fully its removal). CCAL is therefore forwarding this letter to the government and urging it to comply fully with these obligations, if necessary forcing the Mayor to keep the CCWE.

- iv. The UK has a duty to ensure that the Limit Values plus a Margin of Tolerance are not exceeded if the time extension provisions are used: The UK is required to comply with Limit Values for NO<sub>2</sub> by January 2010. Under the new AQ Directive, the UK may apply for a time extension to comply with these Limit Values until January 2015. Similar provisions apply for NO<sub>2</sub> as apply for PM<sub>10</sub>, not least under Article 22, such that if the UK is granted a time extension it must ensure that the Limit Value plus a Margin of Tolerance is not exceeded in any circumstances i.e. average annual NO<sub>2</sub> levels must never exceed 60 µg/m<sup>3</sup>. Hourly average exceedances are also limited. Average annual NO<sub>2</sub> levels far exceed 60 µg/m<sup>3</sup> in parts of the CCWE e.g. Brompton Road, Knightsbridge and Kings Road. Maps in the City of Westminster's current consultation on its air quality strategy highlight the seriousness of this problem across central London into 2010 and beyond. If no time extensions are granted, the Limit Values must be complied with by the times already specified in legislation.

In CCAL's view, congestion and emission measures are both needed if the UK is to reduce air pollution near London's busiest roads by more than one-third by January 2010 as required by air quality laws.

Please consider this letter as a formal reminder to you, as Mayor of London, of these issues.

## Response to Consultation Questions

These responses must be considered in conjunction with the rest of this submission.

CCAL supports keeping the CCWE so that it, and the CCC area, can play a valuable part in improving - and not making worse - air quality in London. If you as Mayor decide to remove or weaken the CCWE, it is plain – all other things being equal - that you will need to tighten commensurately and concurrently the additional inner LEZ(s) that must be operating in London by early 2010. **To over-simplify it: 'let 33,000 vehicle owners choose not to pay**

**£8 to enter the CCWE; or ban an extra 33,000 vehicles each day from the additional inner LEZ(s)'. CCAL urges the Mayor to strengthen the CCWE (and the CCC); CCAL set out measures to improve the CCWE and air quality in general in London in its letter to you dated 13 July 2008 (which is attached and included as part of this submission):**

In respect of the current, narrow, consultation questions, CCAL notes that those opting for any of the Option 3 alternatives are also implicitly supporting Option 1. CCAL considers that the Mayor should have included a fourth option with measures that would 'strengthen' the CCWE e.g. operating it seven days per week and the CCC and CCWE as two co-ordinated, independent schemes. As currently constructed, the consultation is biased towards removal of the CCWE.

Option 1            Yes. CCAL would like it to kept and strengthened

CCAL urges the Mayor to keep the CCWE and embrace road pricing, where necessary, across London. Congestion charging should be a meaningful part of the package of measures needed to comply fully with air quality laws.

Option 2            No, strongly oppose

CCAL urges the Mayor not to remove the CCWE since to do so will make it necessary for him, all other things being equal, to introduce concurrently stronger measures to improve air quality than will otherwise be necessary.

Option 3a          Neither

CCAL does not object to small administrative changes to the CCWE or the CCC, such as on payment terms, provided that the impact of these on emissions is fully and concurrently offset by commensurately stronger terms as part of one or more additional inner LEZs.

Option 3b          Strongly oppose

CCAL objects to the Mayor's proposal to introduce a charge-free period in the CCWE with the effect that 'traffic and congestion levels could increase significantly during the free period'.

Option 3c          Neither

CCAL does not object to small administrative changes to the CCWE or the CC, such as on payment terms, provided that the impact of these on emissions is fully and concurrently offset by commensurately stronger terms as part of one or more additional inner LEZs.

CCAL would be pleased to meet you or your advisers to discuss these proposals as you proposed in your letter dated 31 July 2008.

Please confirm receipt of this letter.

With best wishes.

Yours sincerely

Simon Birkett

Principal Contact  
Campaign for Clean Air in London

By hand:

Winston Fletcher, Chair, The Knightsbridge Association  
Carol Seymour-Newton, Honorary Secretary, The Knightsbridge Association

Cc:

Commissioner Dimas, Environment DG  
The Rt. Hon. Ruth Kelly MP, Secretary of State for Transport  
Jonathan Shaw MP, Minister for Air Quality  
Boris Johnson, Mayor of London Sir Simon Milton, Deputy Mayor

#### **ORGANISATIONS**

Helen Ainsworth, EU and International Air Quality, Defra  
Jenny Bates, London Regional Campaigns Co-ordinator, Friends of the Earth  
James Bidwell, Chief Executive, Visit London  
John Brewster OBE, Chairman, Port Health and Environmental Services Committee, Corporation of London  
Patricia Brown, Chief Executive, Central London Partnership  
Simon Davies, Department for Transport  
Nick Fairholm, Transport for London  
David Higgins, Chief Executive, Olympic Delivery Authority  
Tim Hockney, Executive Director, London First  
Professor Frank Kelly, Kings College London  
Dr Michal Krzyzanowski, Regional Adviser, Air Quality and Health, WHO  
Sarah Legge, GLA Principal Policy Adviser – Air Quality  
Blake Ludwig, Campaign Director, Alliance Against Urban 4x4s  
Professor Bob Maynard, Health Protection Agency  
Philip Mulligan, Chief Executive, Environmental Protection UK  
Derek Picot, Chairman, The Knightsbridge Business Group Dragomira Raeva, EU Policy Unit, European Environmental Bureau  
Dr Martin Williams, Head of Air Quality and Industrial Pollution Programme, Defra  
Tim Williamson, National Air Quality Assessment, Defra

#### **LEADING POLITICIANS**

John Bowis MEP, Conservative  
Jean Lambert MEP, Green  
Baroness Ludford MEP, Liberal Democrat  
Claude Moraes MEP, Labour  
Richard Barnes AM, Statutory Deputy Mayor and Leader of the Conservative Group  
Len Duvall AM, Leader of the Labour Group, London Assembly  
Darren Johnson AM, Green, Chair of the Transport and Environment Committee  
Mike Tuffrey AM, Leader of the Liberal Democrat Group, London Assembly  
Valerie Shawcross AM, Chair of the Transport Committee, London Assembly Councillor  
Colin Barrow, Leader of the Council, City of Westminster  
Councillor Merrick Cockell, Leader of Kensington and Chelsea Council