



Hugh Sumner
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Mayor Johnson
Chairman
Transport for London
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By email and registered post

8 April 2011

Dear Mr Sumner and Mayor Johnson

Stakeholder consultation on the Strategic Environmental Assessment (SEA) of the Olympic Transport Plan (OTP) 2nd edition consultation draft

On basis of information provided, OTP would lead to: breaches of PM₁₀ daily limit value; likely aggravated breaches of NO₂ limit values; and an increase in air pollution. This would be unlawful and vulnerable to legal challenge through judicial review. The OTP proposal should be rejected

Rather than playing mind-games with Londoners or a last minute odd and even number plate ban – as they had in Beijing – the Mayor should be banning all the oldest diesel vehicles from inner London during the ‘greenest Games ever’

Clean Air in London (CAL) welcomes the opportunity offered by the Olympic Delivery Authority (ODA) to participate in the stakeholder consultation on the Strategic Environmental Assessment (SEA) of the Olympic Transport Plan 2nd edition consultation draft (OTP).

<http://www.london2012.com/documents/oda-transport/sea-environmental-report.pdf>

This response is addressed also to the Mayor of London, as Chair of Transport for London (TfL), given that TfL assumed responsibility from the ODA on 9 February 2011 for delivery of key 2012 Games transport programmes including the 2012 Games Travel Demand Management, Olympic and Paralympic Route Networks (ORN and PRN) and Road Freight Management (RFM) programmes in London. See:

<http://www.tfl.gov.uk/corporate/media/newscentre/archive/18237.aspx>

CAL is a not for profit organisation with a mission that includes campaigning to achieve urgently and sustainably at least World Health Organisation Standards (WHO) of air quality throughout London.

CAL is independent of any government funding, has cross-party support and many supporters, both individuals in London and organisations. CAL provides a channel for both public concern and expert opinion on air pollution in London. This document provides both general and expert comments in response to the consultation.

Traffic is a major cause of air pollution in London which in turn contributes to thousands of premature deaths per year and many thousands more illnesses, chronic illness and disability. For this reason, traffic measures are also measures to deal with air quality.

The details of our consultation response are set out below, but in brief:

1. CAL does not think the consultation has been adequate because insufficient information was provided in the consultation document.
2. the ORN and the PRN would cause the breach of one or more limit values for dangerous airborne particles (PM₁₀) and the likely aggravated breach of other limit values (i.e. the NO₂ annual mean and NO₂ hourly limit values).
3. the ODA's own modelling suggests that the operation of the ODA and PRN would lead to an unlawful increase in air pollution, inconsistent with European Union (EU) law.
4. there has been no, or no adequate, consideration of the impact of the proposals on particularly vulnerable groups, or minority ethnic groups.

Some of these issues were highlighted in speeches by Lord Berkeley in the House of Lords in January and June 2010. Lord Berkeley warned then about the possible need for a last minute 'odd and even number plate ban' if the OTP was inadequate. It seems his words were prophetic. See:

5 January 2010 <http://www.theyworkforyou.com/lords/?gid=2010-01-05a.118.0>

14 June 2010 <http://www.theyworkforyou.com/lords/?gid=2010-06-14a.876.1>

CAL notes the ODA's promise in its letter to CAL dated 22 March 2011 that included:

"The ODA undertook the preliminary design for the Olympic Route Network (ORN) and for the Traffic Regulation Order (TRO) process, however in accordance with our strategy the detailed design and operation have been handed over to Transport for London (TfL). Funding has also been handed over to complete works associated with the build and operational phases.

"As detailed design of the routes, and therefore impacts, had not been finalised at the point of handover, the ODA will work collaboratively with TfL to ensure any statutory obligations are discharged in an appropriate and cost effective manner." CAL emphasis.

These statements give CAL a 'substantive legitimate expectation' that offsetting measures will be introduced by the ODA and/or TfL to ensure that there is no worsening of air quality as a result of

the ORN and/or PRN. As yet, these are: vague or unspecified; and still unquantified.

Further details of CAL's concerns are set out below.

Adequacy of the consultation: the information provided is inadequate

CAL believes that the information which has been provided to the public in this consultation document is inadequate. For example, it:

- i. looks narrowly at the impact of the ORN and PRN near the Olympic venues and along some major thoroughfares e.g. *“However, because of the geographical extent of the ORN and PRN and the limited width of the corridor beyond the network itself that is likely to be affected, it is not practical to describe baseline environmental conditions relating to the whole ORN and PRN”* (page 27);
- ii. does not take account of the Mayor's final Air Quality Strategy (MAQS) which was published on 14 December 2010 i.e. more than two months prior to the launch of this consultation. Given the scale of breaches of NO₂ limit values in London, the MAQS – if successful – may result in some areas near or along the ORN or PRN, that breached the NO₂ limit values in 2010, complying with them in 2011. This would increase the prospect of the ORN and PRN causing aggravated breaches of one or both NO₂ limit values (i.e. a limit value being exceeded having been attained) in 2012. Further, the OTP refers to measures in the Mayor's draft Air Quality Strategy which were subsequently weakened or removed which might have addressed problems during the Olympics e.g. special measures to reduce the number and length of periods of high pollution; and
- iii. it assesses compliance with the Air Quality Standards (AQS) when it should be assessing compliance with the EU directive on ambient air quality and cleaner air for Europe 2008/50/EC and the Air Quality Standards Regulations 2010 (AQSR 2010).

Inadequate information is provided on where or when the breaches of EU limit values are likely to occur and there is none to quantify the effect of measures needed to ensure the full mitigation of adverse impacts.

CAL submitted requests for information to the ODA and TfL under the Freedom of Information/Environmental Information Regulations on 22 February 2011. It received replies from the ODA and TfL dated 22 March and 6 April respectively. As is clear from the fact that CAL had to make the request(s), the information was not provided in the consultation document itself.

In the circumstances, CAL's ability to respond to the OTP consultation is compromised.

Response to the proposals, insofar as a response is possible

Notwithstanding and subject to its concerns about the consultation, CAL outlines below the response it is able to make to the proposal. This response is of necessity in general terms.

1. The SEA identifies problems: OTP expected to cause the breach of one or more limit values

Even assuming the ambitious Transport Demand Management (TDM) plan in the OTP is implemented successfully, the OTP is expected to cause breaches of one or more limit values. For example:

“Regarding PM₁₀ monitoring data, it is forecasted that annual mean levels will be below the AQS. However, the number of daily mean exceedances at some roadside sites is anticipated to be more than the allowable number of exceedances” (page 36). CAL emphasis.

Further, Appendix C states in several places: *“Both the NO₂ and PM₁₀ levels still likely to exceed the AQS in 2012”* i.e. at ‘The River Zone’, ‘Central Zone’, ‘Other London venues’ and ‘Other venues’. It is not clear from the consultation documents if these breaches are caused by the OTP and/or just exacerbated by it. As you know, limit values may not be exceeded once attained and air pollution in general may not be worsened.

No breaches of the PM₁₀ limit values are permitted in 2011 or thereafter. NO₂ limit values have been breached in London since they entered into force in January 2010 and may only be breached in the period up to January 2015 if the UK obtains a time extension to comply with them and meets various conditions such as the need to ensure NO₂ annual mean concentrations do not exceed 60 micrograms per cubic metre (µg/m³). The UK must lodge such an application by 30 September 2011 and the European Commission would then have until 30 June 2012 to object to it (or not). In other words the outcome is likely to be known only in the last few days or weeks before the start of the London 2012 Olympic Games.

You will be aware the UK’s first application for a time extension on PM₁₀ was rejected in December 2009 and the European Commission announced on 11 March 2011 a time extension until 11 June 2011 subject to a temporary and conditional exemption (which has not yet been complied with).

2. The SEA fails to identify and quantify solutions: full mitigation is needed

The consultation appears to dismiss the problems identified on the basis they would be either temporary in time or local in geographical terms i.e. ‘*minor temporary adverse effects in some specific locations*’ (page 6), ‘*minor adverse effect*’ (Table 15 on page 80) and/or ‘*Overall, a minor temporary adverse effect of the Transport Plan is anticipated in this respect, compared with baseline conditions*’ (page 93).

Worse, the consultation highlights the need for a solution or solutions and then fails to specify it or quantify it or them. For example, the consultation states on pages 92 and 93:

“The modelling of the effects of the ORN and PRN indicates that there are a number of locations where quite large increases of traffic flow may occur as a result of diversions necessary for the operation of the ORN and PRN, albeit perhaps for a small number of occasions. This includes a number of locations:

- *in the vicinity of the Olympic Park;*
- *on the main through-routes in the City of London; and*
- *on the routes serving Wimbledon, Earls Court and Wembley.*

“As the detailed planning of the ORN and PRN continues, it will be necessary to ensure that the arrangements for its implementation and the diversion of non-Games Family traffic do not lead to

additional breaches of air quality standards. The detailed design of the ORN and PRN has now been handed over to TfL as the delivery partner responsible. Consequently, the scheme will be subject further to TfL's Project Environmental Evaluation appraisal.

"Outside of London, the anticipated levels of traffic and the way in which the ORN and PRN will be operated mean that it is unlikely that the effects of the ORN and PRN will lead to any significant worsening of air quality.

"However, even if this were the case, it seems unlikely that there would be significant additional emissions of local air pollutants from road traffic during the period in which the Transport Plan will be operational. Also, any effects that were to occur would only do so temporarily, over a relatively short period of time.

"On this basis, it is considered that there would be at worst some minor decrease in baseline air quality associated with emissions from transport due to travel associated with the Games. However, the measures that the Transport Plan will put in place to encourage and ensure that a very high proportion of travel by spectators will be by public transport means that the levels of local pollutant emissions will be lower than would otherwise have been the case without the Plan. Overall, a minor temporary adverse effect of the Transport Plan is anticipated in this respect, compared with baseline conditions." CAL emphasis.

Travel Demand Management

Olympic Travel Demand Management measures typically include: travel capacity creation measures; travel behaviour change/marketing; traffic efficiency measures; traffic bans; and an emphasis on public transport.

Travel behaviour change/marketing measures seek to manage expectations as part of Olympic transport planning and use the 'Big Scare' to influence travel behaviour. The 'Big Scare' refers to the concerns which Games city residents have about travel and living conditions during Games time. It was first used to influence demand during the Sydney 2000 Games. For more details, please see:

[CAL 134 Monash Big Scare](#)

[CAL 134 Monash Big Scare 2](#)

Page 87 of the SEA states:

"Overall, it has been estimated that the Games will lead to a nearly 30 reduction in traffic flows on the ORN and PRN and about five per cent additional road traffic elsewhere, although it should be noted that this is at a time of year where traffic levels, particularly in London, are typically lower than average.

"In addition, evidence from the Sydney 2000 Games indicates that there was also a reduction in background travel demand during the period of the Olympic Games and Paralympic Games. It has been noted in this respect that 'a successful travel demand management programme (TDM) ... resulted in a notable decrease of background travel in Sydney during the Games. This was largely

achieved through a patient and well-orientated pre-Games communications campaign, aimed at citizens, potentially affected residents, local commerce and large businesses'. Such demand management will also be a feature of the London 2012 Transport Plan. On this basis, therefore it is not anticipated that there would be an overall increase in traffic flows and vehicle kilometres during the period that the Transport Plan is operational." CAL emphasis.

CAL understands that a 30% reduction in non-Games Family traffic would be exceptional during the Olympic Games. In any event, because it depends on the use of the 'Big Scare' to manage people's expectations such reductions are unlikely to be achieved in London given the 'cat is out of the bag'. Some sort of large scale traffic bans or restrictions therefore seem inevitable for London.

CAL considers that this challenge, when combined with the promise to deliver the 'greenest Games ever', represents a major opportunity to adopt a new, innovative approach. Details of the promises to deliver the 'greenest Games ever' can be seen at:

<http://cleanairinlondon.org/olympics/london-2012-greenest-games-ever-or-most-sustainable-ever-breaches-of-air-quality-laws-with-eu-and-ioc-legal-action/>

CAL proposes that the Mayor should adopt a Berlin-style low emission zone for inner London during the 100 days in 2012 covered by the Queen's Diamond Jubilee, the Olympic Games and the Paralympic Games. This would ban all pre-Euro 4 diesel vehicles with the exception of licenced black taxis dropping off fare paying passengers (but not picking them up) and vulnerable groups. The scheme would continue in Central London after these events.

Based on TfL estimates (provided to CAL in response to a Freedom of Information request) this might affect up to 30% of diesel cars; 55% of LGVs and minibuses; 45% of coaches; 40% of rigid HGVs; and 30% of articulated HGVs. Surely a planned measure like this would be better than a last minute, chaotic odd and even number plate affecting all vehicles? It would reduce vehicle numbers and air pollution.

This scheme would showcase for 100 days in 2012 the London we would see in Central London from late 2012 and more significantly across the city in 2015 and thereafter. It would support the image of the 'greenest Games ever' and deliver tangible public health benefits.

Conclusion

On the basis of the information provided, incomplete though it is, the OTP and the operation of the ORN and PRN would lead to:

- i. breaches of the PM₁₀ daily limit value in 2012 (e.g. page 36 and Appendix C);
- ii. likely aggravated breaches of the NO₂ annual mean and NO₂ hourly limit values (i.e. exceedances of limit values which had been attained in 2011); and
- iii. an increase in harmful concentrations in ambient air.

For the reasons outlined above this would be unlawful and vulnerable to legal challenge through judicial review.

CAL therefore concludes that the ODA, TfL and the Mayor of London should reject the proposal for the OTP. There should be no further outcome without further information and modelling, all of which

should be subject to further consultation.

Please contact me if you have any questions or would like more information on any of the points raised in this letter. I have copied this response to interested parties including Count Jacques Rogge and Shaun McCarthy.

With best wishes.
Yours sincerely

Simon Birkett
Founder and Director
Clean Air in London

Cc:

Count Jacques Rogge, President of the International Olympic Committee
Shaun McCarthy, Chair, Commission for Sustainable London 2012
Peter Hendy, Transport for London
Janez Potočnik, Commissioner for the Environment, European Commission
Caroline Spelman, Secretary of State for Environment Food and Rural Affairs
Philip Hammond, Secretary of State for Transport
The Lord Berkeley, House of Lords
Dr Robert Maynard, Health Protection Agency
Adrian Young, Environment Agency
Darren Johnson AM, Green, Chair, London Assembly Environment Committee
Murad Qureshi AM, Labour, Deputy Chair, London Assembly Environment Committee
Mike Tuffrey AM, Liberal Democrat
James Cleverly AM, Conservative