

Cruise ship emissions debate sets sail for High Court

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Environment analysis: Could a High Court challenge scupper plans for a cruise ship wharf in the Thames at Greenwich? Christopher Badger, barrister at 6 Pump Court, considers the issues in the challenge in the context of the wider debate around air quality.

What is the substance of this legal challenge?

Plans for a wharf in the Thames that would be able to handle 240 metre-long cruise liners carrying up to 1,800 passengers and 600 crew were approved by Greenwich Council in July 2015, but are being challenged in the High Court by local residents. According to a *Guardian* report on 31 March 2016, objectors say that large ships being allowed to moor at the wharf in Enderby could emit as many diesel fumes as 2,000 lorries a day—although the same newspaper has also identified that larger mid-size cruise ships docked at Enderby Wharf would burn the equivalent amount of diesel as 688 heavy lorries permanently running their engines.

What impact do cruise ships have in terms of the local air quality? Have challenges been raised in the past by other nearby dockyard residents?

There is little cruise-industry specific data on the issue. Cruise ships comprise only a small percentage of the world shipping fleet, but of course cruise ships, by their nature, repeatedly visit specific coastal areas, which may have the potential to have significant impacts on a local scale on air quality. Large diesel engines can have the effect of producing large amounts of nitrogen oxide emissions. Friends of the Earth produce an annual report card for major cruise lines, although it must be recognised that cruise lines and related associations do not necessarily agree that the methodology used or results provided by Friends of the Earth are accurate or provide any meaningful assistance in determining the effect of cruise ships on air quality. Some recently built cruise ships have used liquefied natural gas as a fuel in an effort to drastically reduce exhaust emissions.

In the most recent court proceedings, a US court upheld a challenge to a proposed intermodal rail terminal in the Port of Los Angeles, in which the plaintiffs cited the potential effects on air quality as a result of diesel pollution—the court effectively ruled that the environmental analysis that had been performed had been inadequate, putting the development on hold.

It should also be recognised that a large number of ports use ‘clean’ onshore power, enabling ships to turn off their diesel engines and connect to a local electrical supply.

What were the facts behind Greenwich Council granting permission for the wharf in the Thames—were the health risks taken into account?

Consent for the development was originally granted in 2012, after which the developer came forward with improvements to the originally consented scheme. These were debated at a meeting on 21 July 2015. It was intended that the development would provide not only a boost to the tourism industry but also that it was expected to revive and regenerate the Greenwich waterfront. At the Planning Board meeting on 21 July 2015, it is recorded in the minutes that an extensive modelling exercise had been undertaken concerning air quality and that in the worst case scenario there was only a very slim chance of exceeding EU Air Quality Directive 2008/50/EC levels. It was also suggested that exceedances of Air Quality Directive levels in the area resulted from the major roads in the Tower Hamlets area and that any contribution from the proposed terminal would be minimal. Several objections were raised at the meeting concerning air quality and the risk that this could be detrimental to public health.

If successful, what would this challenge mean for the future of the London City Cruise Port?

The challenge has the potential to prevent the development taking place, either in its current form or at all. The precise form of the challenge remains to be seen. According to travelweekly.co.uk, a spokesman for East Greenwich Residents Association said:

'The alternative is to supply clean onshore power to the cruise vessels rather than running filthy diesel engines. Yet the current planning permission does not require a cleaner operation. Nor has a health feasibility study been undertaken.'

A spokesman for the Royal Borough of Greenwich has indicated that the local authority will robustly defend its decision-making process, but would not make any further comment due to the fact that proceedings had been issued.

Air quality continues to come before the courts—are we reaching critical mass on this issue and will the government be forced to take action in light of recent air quality legal challenges?

Air quality is a very significant issue, both for the UK courts and for the government. I do not consider that we are at critical mass, particularly given the importance of the issue. However, it remains unclear how the government will respond and address all of the issues raised by the latest challenges.

Christopher Badger has an established practice in environmental law, with particular emphasis on regulatory investigations and prosecutions. Recent advice has included issues on environmental liabilities for private investors, the risks run by landowners for breaches of environmental legislation by contractors and the implementation and practical use of the Definitive Guideline for Environmental Offences.

Interviewed by Emily Jones.

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