

Caroline O'Neill

013J/12

From: Mushing, Rebecca <Rebecca.Mushing@shoosmiths.co.uk>
Sent: 15 November 2016 15:59
To: TRANSPORTANDWORKSACT
Subject: Objection to the Midland Metro (Birmingham Eastside Extension) Order
Attachments: DOC151116-15112016150631.pdf

Dear Sirs

Please find attached a letter of objection on behalf of Hotel La Tour. A hard copy has been submitted in the post. I would be grateful if you could acknowledge safe receipt.

Kind regards

Rebecca Mushing
Solicitor

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Your Ref
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 Date 15 November 2016

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Dear Sirs

**OUR CLIENT: HOTEL LA TOUR
 PROPERTY: HOTEL LA TOUR AT ALBERT STREET, BIRMINGHAM
 OBJECTION TO THE MIDLAND METRO (BIRMINGHAM EASTSIDE EXTENSION) ORDER**

We are instructed to act on behalf of Hotel La Tour which operates a luxury 4 star hotel in Birmingham City Centre. We can confirm receipt of two notices in respect of the Order and the following land:

- Notice of application to use land temporarily and to carry out protective works to land dated 4 October 2016 in relation to land parcels 30 and 40; and
- Notice of application to acquire land compulsorily dated 4 October 2016 in relation to land parcels 39 and 45.

The scheme will have a severe and detrimental impact on our client's ongoing business operation.

Our client's premises are located on Albert Street. We are aware that the route of the eastside extension is to run directly outside the front of our client's hotel including its customer access and car park facility. In addition the order is proposing the siting of 5 substantial and additional permanent bus shelters outside the front of the hotel being a new bus interchange. Our client's objection relates to their concerns in respect of disturbance both during and after implementation of the scheme, impact on access and car parking, lack of consultation and engagement details of which are set out in this objection.

It is acknowledged by the applicant in the Environmental Statement ("ES") that there will be impacts in respect of noise and change in traffic flows during the work and as a result of the scheme. It is further noted that the townscape character will be adversely affected by the introduction of trams and buses. In particular the statement notes:

"It is predicted that the BEE will result in temporary significant adverse effects on the following visual receptors during construction: ...guests at Hotel LaTour..."

"there will be minor adverse effects during operation on ...guests at Hotel LaTour..."

"after five years of the BEE operation, there will be no change in the assessment of views apart from guests at Hotel LaTour..."

Accordingly there is recognition that the construction phase will result in a severe adverse impact on our client in particular. Our client is willing to work with the applicant in relation to mitigation but progress to date has been slow with a lack of detail being provided by the applicant.

BACKGROUND

Hotel La Tour operates a high end hotel facility which offers an excellent location for both tourists and business visitors to the city. Our client has invested heavily in this area of the city to provide such an offering which has been a catalyst for the regeneration of this area attracting other business to set up and operate in the location. To complement the hotel offering the premises also provides conference and event facilities together with high quality dining options. It is clear that the Council's intention from the Big City Plan is to grow this area of the City rather than discourage and hinder the successful operations already in place.

Our client has spent a considerable amount of resource, money and effort in generating a quality offering which is highly successful and has resulted in the regeneration of this area. Most recently it has spent in excess of £100,000 in attracting a Marco Pierre White restaurant to the hotel and the hotel currently employs 140 people.

At present the hotel currently runs at an occupancy rate of 80% and this is forecast to increase further. The priority for our client is to continue to offer the high level hotel, dining and conference experience currently being enjoyed by customers and to maximise on its success to date.

CONSTRUCTION PERIOD

Whilst our client acknowledges that the trams themselves are relatively quiet, inevitably there will be substantial disturbance and noise whilst the works are carried out around our client's hotel to implement the scheme which will have a detrimental impact on our client's business operation. Our client does acknowledge this is inevitable if the scheme is to go ahead and they have sought meaningful dialogue with the applicant to discuss how this disturbance to their ongoing business operation can be minimised. The applicant has not provided our client with any meaningful detail which has been requested on several occasions as to the impact and how this will be minimised to date.

Our client's operation is 24 hours and there is no 'practical' time at which to carry out any such works around the hotel. However, our client is willing to work with the applicant in relation to mitigation measures and construction timetable but needs the detail requested on several occasions to be able to consider the best solution for all.

It is noted from the applicants ES that it is anticipated that the actual construction period for the works will be some 24 months. Clearly the hotel needs to be clear about the impact on their operation during this period to enable them to continue to operate with the minimum of disruption possible.

Further the ES states the hours of the construction operation will be 0700-1900 on weekdays and 0700-1300 on Saturdays with the requirement for some night time working. It is evident that night time working would not be acceptable around the hotel given that paying guests at that time have a legitimate expectation of a quiet nights rest.

CONSULTATION AND ENGAGEMENT

The applicant's report on consultations states that on several occasions they have consulted with local stakeholders including the Hotel. The Hotel has in fact been consulted in the following manner during the process:

- Letter received from Centro in November 2015 notifying of the extension and gathering information in respect of land interests;
- Meeting held at the request of the Hotel on 25 May 2016 in which the applicant agreed to take the following action and report back at a further meeting:
 - Alternative car park options
 - Timetabling for the works
 - Construction methodology
 - Mitigation proposals including fences and hoardings around the hotel
 - Detailed design around the hotel in particular
 - Cleaning regime in the area
- Several emails from Shoosmiths to the applicant following the May meeting requesting updated plans and detailed designs and further information in general in relation to the scheme. Limited further information was forthcoming.
- Meeting held on 11 September 2016 in which to further discuss design and other practicalities such as car parking, hoardings, schedule of works and the bus stops. No further detail was provided by the applicant.

Our client and ourselves have made repeated requests over the period of 7 plus months for further information to enable them to work with the applicant. The only detail provided by the applicant has been a further plan showing the distances of the bus shelters and tram extension from the hotel. No other meaningful details have been supplied.

The applicant has sought to carry out works around the hotel in relation to the installation of bus stops on Masshouse Lane. Although not directly related to this scheme the manner in which this was dealt with concerns our client in relation to the way works and communication for this scheme will proceed. The works in question were commenced without notice or consultation directly outside our client's high end restaurant during Sunday breakfast service.

In order for our client to properly be able to consider the proposals and their impacts they require details on the following matters:

- Fencing and hoarding details – in particular the quality and design together with distance from the hotel;
- Use – details as to what each parcel of land is to be used for (either temporarily or compulsorily acquired). It is noted that one area of temporary use (parcel number 30) is directly outside our client's new entrance to their restaurant which they have spent in excess of £100,000 delivering.
- Details as to when each parcel is to be taken and further whether use by the hotel can be maintained until each parcel is required for the purpose it is required, noting in particular the car park at the front of the hotel.

- Sequence of works – is it proposed that the works are undertaken all at once or on a phased approach. Our client needs to be sure that they can still operate with the minimum of disruption without access being sterilised.
- Location of the construction compounds for the works.
- When diversion of the services will take place and the disruption to be caused.
- Whether any further additional infrastructure such as transformers, cabinets etc are to be located in the vicinity of the hotel.
- Alternative suitable car park solutions

As it can be seen from the list above there is substantial information outstanding which is required before our client can properly consider the proposals and the impact it will have on its business operation.

ACCESS

The reconfiguration of the roads around the hotel means the cars using such access will have no choice but to be funnelled out back onto Masshouse Lane as Park Street is to be closed as part of the scheme. This makes accessing the hotel far less convenient for its customers.

CAR PARK

Our client's customers currently enjoy the benefit of two car park facilities the first being outside the front of the client's hotel and the second being as a result of an arrangement with Selfridges to use their car park at a preferential rate.

Under the new proposals customers of the hotel will experience difficulty in parking using these facilities as the scheme will take the land currently used by the hotel as a car park at the front (parcel number 39 and 40). Further road closures and reconfiguration around the hotel means there is no easy access to the Selfridge car park. The impact of the loss of the car parking may not have been so great upon our client had alternative parking facilities been accessible and practical nearby. The applicant has advised that their scheme and that of HS2 does not propose any additional parking facilities.

Although it is noted that the tram provides an alternative means of transport to the hotel this will not be a convenient method to all of the hotels customers and indeed it is naive to think that every customer of the hotel can be encouraged to use such alternative methods as it will depend on individual circumstances This means that those customers will opt for an alternative hotel which can offer suitably convenient car parking facilities.

The applicant did accept at a meeting with our client that the parking facilities were an issue and had advised they were to go away and have a look at realistic alternatives for the hotel. The only proposal that has been advanced as merely a suggestion without investigation as to whether it is feasible is the use of the Millennium Point car park. It is our view that this is not a viable solution given the HS2 proposals in that area. It is also impractical firstly given the distance and secondly it does not provide a route which the hotel feels is safe for its customers to walk back to the hotel.

During the week 55% of the hotels customers travel by car and at the weekend this number increases. There is clearly a need to maintain a level of car parking which is suitable and accessible.

TRANSPORT HUB

Our client is most concerned that as part of the proposals they are seemingly being put at the centre of a mini transport hub which houses both the tram extension, additional bus shelters and reconfiguration of roads which is unacceptable from our client's perspective. Such a transport hub would have an adverse effect on our client's business, particularly due to anti-social behaviour which inevitably arises in locations with permanent bus shelters and the general noise and disturbance from the users of the trams, buses and general traffic.

The existing bus stops located on Masshouse Lane which were originally only designed for setting down of passengers have been upgraded to set down and pick up and have attracted various incidents of antisocial behaviour resulting in our client having the police called on several occasions. The siting of the new bus shelters will only exacerbate the situation and indeed move the problem closer to the hotel. These shelters will then create a nuisance to residents and users of the hotel. Our client is also concerned that these shelters will be used as an attractive place to seek shelter and warmth. It is clear that this does not create the setting of a leading 4 star hotel and is likely to result in a reduction in occupancy rates in addition to covers in the restaurant and on the rates that our client will have the ability to charge.

It is acknowledged that the applicant has moved the original location of the bus shelters to the otherside of the tramline but they still remain outside the front of our client's hotel. It is still unclear to our client as to why the shelters have to be located in this position and not remain in their current location of Moor Street Queensway.

DISTURBANCE

The bus activity at the front of the hotel will no doubt create an increased level of noise disturbance to the building from both the buses and the users of the service (and any antisocial behaviour the shelters attract) which once experienced by customers staying over or indeed holding a meeting or conference at the hotel will colour their experience and stay which will affect repeat business and reviews. This noise will clearly be audible from the hotel and indeed the hotels most expensive rooms are located on the frontage overlooking the tram extension and bus shelters.

Our client has already experienced loss of business due to the bus noise at the rear and sides of the hotel which resulted in the loss of a prospective contract worth in excess of £500,000 directly because of the noise. If this bus noise was then also to occur at the front of the hotel where our client houses their most expensive rooms charged out at some 34% more than other rooms they would have to relook at their pricing and viability.

CONCLUSION

A luxury hotel next to a busy construction site and indeed a "transport hub" is not an attractive relaxing atmosphere for an overnight stay or conducive to holding a conference. It surely must be the aim of the applicant and the Council to work cooperatively with a successful well established local business to make sure that implementing a scheme works for all and does not put them out of business therefore affecting the local economy and employment rates in the city. Indeed the Council's Big City Local Plan talks about the creation of new jobs to meet the need of the growing population not putting existing jobs in jeopardy.

Although the applicant has indicated that it will work with our client to date it has not given any meaningful dialogue or detail for our client to consider. The applicants own environmental statement acknowledges the following:

"BCC has longstanding plans for further investment and regeneration of Digbeth and Eastside areas, which is reflected in various BCC planning policies. It's plans involve maximising the benefits arising from improved connectivity and investment in HS2 and associated commercial, retail and residential development"

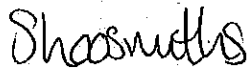
The Secretary of State for Transport

The proposals and the applicant need to allow for the ongoing operational requirements of existing businesses including our client's in order to ensure that they can continue to trade at the same level and indeed expand and grow as per the Council's vision.

It is critical that our client's concerns are fully addressed so that a practical and appropriate proposal is brought forward. Unless and until an agreement is reached with the applicant our client's objection will stand.

We politely request that any correspondence in connection with this objection is served on ourselves as the legal representatives for Hotel La Tour at address at the head of this letter.

Yours faithfully



SHOOSMITHS LLP