

## **TRANSPORT AND WORKS ACT 1992**

### **THE TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE) (ENGLAND AND WALES) RULES 2006**

### **THE TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004**

### **THE PROPOSED MIDLAND METRO (BIRMINGHAM EASTSIDE EXTENSION) ORDER**

### **COMPLIANCE WITH THE NOTIFICATION AND PUBLICITY REQUIREMENTS OF THE ABOVE RULES**

---

#### **1. INTRODUCTION**

- 1.1 This note sets out how the West Midlands Combined Authority ("WMCA") has complied with its obligations under the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 ("**the Application Rules**") and the Transport and Works (Inquiries Procedure) Rules 2004 ("**the Inquiry Rules**") to:
- 1.1.1 identify all those affected by the proposed Midland Metro (Birmingham Eastside Extension) Order ("**the proposed Order**");
  - 1.1.2 publicise and notify owners, occupiers and others about the application for the proposed Order;
  - 1.1.3 make information about the proposed Order available for inspection, including on WMCA's website;
  - 1.1.4 serve a Statement of Case on the Secretary of State together with copies of documents to be referred to;
  - 1.1.5 serve a Statement of Case on each statutory objector and others together with a list of those documents to be referred to;
  - 1.1.6 give notice of where the Statement of Case and those documents referred to in it can be inspected;
  - 1.1.7 publicise details of the inquiry; and
  - 1.1.8 serve proofs of evidence.
2. Affidavits which formally prove WMCA's compliance with the Application Rules have been sworn by Frances Ellis of Pinsent Masons LLP and Tiffany Norris of TerraQuest Solutions Limited and submitted to the Department for Transport on 15 November 2016.

#### **THE APPLICATION RULES**

#### **3. BOOK OF REFERENCE**

- 3.1 Under rules 10(4) and 12(8) of the Application Rules, WMCA is required to submit with the application for the proposed Order a book of reference containing the names of:
- 3.1.1 all owners, lessees, tenants or occupiers of land proposed to be compulsorily acquired or used;

3.1.2 all those entitled to easements or other private rights over such land and those who would be entitled to a notice to treat if the land was being acquired under the Compulsory Purchase Act 1965; and

3.1.3 various statutory bodies and organisations.

3.2 Under rule 15(1) of the Application Rules, all of these people must be served with notice of the application. In compliance with this, on 4 October 2016 Terraquest on behalf of WMCA served by Royal Mail Special Delivery notice of the application for the proposed Order on every person listed in the book of reference. As this list contains personal data (names and addresses), WMCA has not made it available as a matter of a course but will happily allow it to be inspected on request or provide individuals with copies of their own entries.

3.3 Rule 12(10) of the Application Rules provides that the book of reference only need include those names which have been ascertained by the applicant after making diligent inquiry at the beginning of a period of 28 days ending with the date of the application. Rule 12(11) provides that, if the applicant has made diligent inquiries in order to attempt to obtain the necessary information, an application for an Order is not invalid simply because there are errors or omissions in the book of reference.

3.4 WMCA considers that it has undertaken 'diligent inquiries' for the purposes of Rule 12(10) of the Application Rules, and that the addresses of the persons and bodies named in the book of reference are the proper addresses for those persons and bodies as described by section 66 of the Transport and Works Act 1992.

3.5 WMCA complied with its obligations under Application Rules 10(4), 12(8), 12(10) and 15(1) in the ways set out below.

#### 4. **NOTICES**

4.1 Application Rule 13(3) requires WMCA to serve copies of the application documents on the bodies identified in Column 2 of Schedule 5 to the Application Rules in the case of an application authorising any of the works described within Column 1 of that Schedule.

4.2 Application Rule 14(4) requires WMCA to notify those identified in Column 2 of Schedule 6 to the Application Rules in the case of an application authorising any of the works described within Column 1 of that Schedule.

4.3 Application Rules 13(1), (2), and (4) specify various other bodies that must be notified in certain circumstances.

4.4 WMCA notified all of those required to be served with notice by Application Rules 13 and 14, as set out in the affidavits mentioned above. The bodies that were served are listed in the exhibits to those affidavits. As the exhibits list the names and addresses of individuals they have not been published in order to protect this personal data. The exhibits may be inspected on request.

4.5 As set out in the Consultation Report **BEE/A10**, WMCA also consulted all of the relevant statutory bodies set out in the Application Rules before making the application for the proposed Order.

4.6 In addition to the statutory notice requirements, the application was also advertised as set out below.

#### 5. **INSPECTION AND ADVERTISEMENT OF THE ORDER**

5.1 Application Rule 14 requires WMCA to publish notice of the application in *The London Gazette* and on two occasions in a local newspaper. Notices of the application were

required to be displayed at intervals of not more than 5 kilometres along the length of the proposed route, and notices also had to be displayed as close as reasonably practicable to each point of extinguishment, diversion, stopping-up or restriction of a highway. Under Rule 14(9) WMCA was required to use its best endeavours to ensure that those notices continued to be displayed in a legible form until the objection deadline (which in this case was 15 November 2016).

5.2 Under Application Rule 14, the application and accompanying documents were required to be available for inspection free of charge at reasonable hours in the areas to which the proposal relates. Copies of the application documents also had to be provided, where requested, for a reasonable charge, in accordance with Application Rule 14(10).

5.3 WMCA complied with its obligations under Application Rule 14 in the following ways:

5.3.1 Even though TWAO promoters are not obliged to make the application and accompanying documents available for viewing electronically, WMCA made all of these documents available for viewing at no charge on its Birmingham Eastside Extension website:

[www.metroalliance.co.uk/eastside-extension](http://www.metroalliance.co.uk/eastside-extension)

5.3.2 WMCA made all plans and other application documents available for inspection at the Library of Birmingham, Centenary Square, Broad Street, Birmingham B1 2ND

5.3.3 Copies of all of the application documents were available from WMCA for a reasonable fee.

5.3.4 In accordance with Application Rules 14(6) and (7), notices were displayed on, or as close as reasonably practicable to the sites of proposed works (at not more than 5 km intervals), and at places as near as practicable to each point of proposed highway extinguishment, diversion, stopping-up or restriction, at places accessible to the public. These notices were posted not later than 4 October 2016. Some notices disappeared or were removed but replacement notices were displayed where necessary each week during the period 4 October 2016 to 15 November 2016, in compliance with Application Rule 14(9).

5.3.5 The application for the Order was advertised in the following newspapers on the following dates:

(a) *Birmingham Mail* on 4 and 11 October 2016; and

(b) *The London Gazette* on 4 October 2016.

5.3.6 WMCA was not required to provide photocopying facilities at inspection points, as copies were available from WMCA, in accordance with Application Rule 14(10). Photocopying facilities were nevertheless available at reasonable charges at Birmingham Library.

5.3.7 WMCA was not required by the Application Rules to be on hand at the inspection points to answer queries relating to the application documents and plans. Nevertheless, WMCA was contactable by telephone throughout the objection period for the public to raise any queries about the proposed Order or any aspect of the application documents.

## 6. **OBJECTION PERIOD**

- 6.1 Under Application Rules 4(1) and 14(1) the expiry date for objections is the date specified in the notice published in *The London Gazette*, which must be not less than 42 days from the date on which the application is made.
- 6.2 The application for the proposed Order was made on 4 October 2016, and the date specified in *The London Gazette* notice was 15 November 2016. This constituted a 42 day period in which to object, in compliance with Application Rules 4(1) and 14(1). Once the expiry date had been specified in the notice, there was no power for WMCA to postpone it, although WMCA has not taken issue with any objection that arrived late.

## **THE INQUIRY RULES**

### 7. **STATEMENT OF CASE**

- 7.1 Under Rule 7(1) of the Inquiry Rules, WMCA must serve a Statement of Case on the relevant Secretary of State and on each statutory objector not later than 6 weeks after the intention to hold an inquiry is announced. WMCA served its Statement of Case on 31 May 2017, 6 weeks after the inquiry was announced on 12 April 2017.
- 7.2 Inquiry Rule 7(2) requires WMCA to serve on the Secretary of State any documents which it intended to refer to or put in evidence at that stage, and WMCA did so on 31 May 2017.
- 7.3 Inquiry Rule 7(2) also requires WMCA to serve a notice giving the names of all places within each area in which the proposals contained in the application are to have effect (or as close as reasonably possible to any such area), where a copy of every document or the relevant part of any document which the applicant intends to refer to or put in evidence may be inspected free of charge at all reasonable hours until the date of commencement of the inquiry. Appendix B to WMCA's Statement of Case, served pursuant to Inquiry Rule 7(1), gave details of the locations where these documents could be inspected.

### 8. **NOTIFICATION OF INQUIRY**

- 8.1 Under Inquiry Rule 13(6), WMCA is required, not later than 2 weeks before the date fixed for the commencement of an inquiry, to:
- 8.1.1 post a notice of the inquiry in a conspicuous place or (in the case of an application for an order making provision for land-based linear works of more than 5 kilometres in length) at intervals of not more than 5 kilometres on, or as close as reasonably practicable to, the land to which the powers sought in the application relate;
  - 8.1.2 post a notice of the inquiry in one or more places where public notices are usually posted in the area in which the proposals contained in the application relate; and
  - 8.1.3 publish a notice of the inquiry by local advertisement in the area in which the proposals contained in the application are to have effect.
- 8.2 WMCA posted the inquiry notice on Digbeth High Street, in the vicinity of the South and City College building and on the notice board at Birmingham City Council's Council House, Victoria Square, Birmingham B1 1BB.
- 8.3 A notice was published in the Birmingham Mail on 24 October 2017.

### 9. **PROOFS OF EVIDENCE**

- 9.1 Inquiry Rule 16 requires WMCA to send copies of its proofs of evidence to the inspector, with written summaries where the proofs are more than 1,500 words, no later than 4 weeks before the inquiry. On 23 October 2017, more than 4 weeks in advance of the inquiry commencing on 22 November 2017, WMCA's proofs of evidence were sent to the inspector and these proofs included those documents referred to in them that had not been mentioned in the List of Documents appended to WMCA's Statement of Case.
- 9.2 At the same time, WMCA served copies of the proofs of evidence on all statutory objectors and on those who had served a Statement of Case. The proofs of evidence were made available on the BEE inquiry website <https://www.twainquiry.co.uk/> .

**Pinsent Masons LLP**  
**16 November 2017**