

**TRANSPORT AND WORKS ACT 1992: PROPOSED MIDLAND METRO
(BIRMINGHAM EASTSIDE EXTENSION) ORDER**

**TOWN AND COUNTRY PLANNING ACT 1990: REQUEST FOR DEEMED
PLANNING PERMISSION**

TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 200

PRE-INQUIRY NOTE

1 Introduction

- 1.1 **Martin Whitehead**, a Chartered Civil Engineer, is the Inspector who has been appointed by the Secretary of State for Transport to hold an Inquiry into the proposed Transport and Works Act Order and related matters.
- 1.2 The Inspector will be assisted by **Melanie Owen-Roberts**, who has been appointed as the Programme Officer for the Inquiry.

2 Scope of Inquiry

- 2.1 The Inquiry will be into:
- the proposed Transport and Works Act Order (TWAO); and
 - a request for Deemed Planning Permission (DPP) for the works that would be authorised by the Order
- All pursuant to, or in connection with, the Midland Metro (Birmingham Eastside Extension).
- 2.2 12 letters of objection, 2 representations and 5 letters of support have been received in respect of the TWAO. One objection and one representation have since been withdrawn.

3 Programme Officer

- 3.1 The Programme Officer is a neutral officer of the Inquiry, responsible to the Inspector and her main duties, under the direction of the Inspector are:
1. keeping records of those attending the Inquiry;
 2. organising and keeping under review the Inquiry programme;
 3. organising practical arrangements for the Inquiry, including co-ordinating and advising on appearances;
 4. acting as a contact between participants and the Inspector;
 5. co-ordinating the receipt and distribution of documents;

6. holding a master set of all documents, including an Inquiry Library and website and maintaining document lists; and
 7. planning site visits.
- 3.2 The Programme Officer will play no part in the report beyond helping with the collation of lists of those appearing at the Inquiry and of Inquiry documents, which will be appended to it. Her contact details are given in the attached Appendix.

4 Appearances at the Inquiry

- 4.1 The Promoter is the West Midlands Combined Authority (WMCA), and its Statement of Case (SOC) is dated 30 May 2017.
- 4.2 SOC's have been received from the following 4 objectors:
- i. OBJ/3- Pheonix C S R Ltd, dated 5 May 2017
 - ii. OBJ/4- National Express West Midlands, dated 25 May 2017
 - iii. OBJ/6- Martineau Galleries No 1 Limited and Martineau Galleries No 2 Limited, dated 31 May 2017
 - iv. OBJ/12- Hotel La Tour, dated 31 May 2017
- 4.3 Parties may appear at the Inquiry in person and may be represented by counsel, a solicitor or some other representative. However, when making a case, prospective participants should bear in mind that if a point is a good one, and is supported by relevant evidence, it needs to be made only once in order to carry weight. Repeating the point will not add to that weight, but will simply waste Inquiry time.
- 4.4 People who do not need or wish to speak at the Inquiry will be welcome to attend as observers. In considering the Order and associated matters, the Inspector will take account of all written representations as well as the evidence heard at the Inquiry.

5 Inquiry venue

- 5.1 The Inquiry is planned to be held at the Priory Rooms, Quaker Meeting House, 40 Bull Street, Birmingham, B4 6AF.
- 5.2 The venue needs to be accessible for people with disabilities. In addition to the main Inquiry room, there will need to be a room/rooms for the Inspector, Programme Officer and library. The Promoter will also need to examine the requirements for desk space, the possible use of projectors to display images, and other facilities for use by the participants.

6 Inquiry dates and times

- 6.1 The Inquiry is proposed to open at 1000 hours on Wednesday 22 November 2017. It is provisionally estimated that the Inquiry will sit for 7 days over 2 weeks. However, a better idea of the length of the Inquiry will emerge once estimates of the time needed for the various stages in the Inquiry have been provided and a programme has been drafted.
- 6.2 The Inquiry will generally sit at the following times, except for its opening: 0930 hours to about 1700 hours, with one hour breaks for lunch at around 1300 hours, and short breaks at convenient points (mid-morning & afternoon), except on Fridays when there will be no mid-afternoon break but an earlier finish.

7 Main issues and areas of agreement

- 7.1 The Secretary of State has circulated a list of matters about which he wishes to be informed in the **Statement of Matters**. Parties should have received copies and it will be available in the Library of documents and on the website.
- 7.2 The Inspector asks all parties to have particular regard to the **Statement of Matters**, and to address explicitly all matters identified that are relevant to them, including the scope for mitigating any harm, in the presentation of evidence. The list is not exhaustive and it does not preclude other matters from being raised if relevant. The Promoter should ensure that it responds explicitly to every objection, including those made in writing only.
- 7.3 The Inspector requests the Promoter to reach agreement with objectors on as many issues as possible, in the interests of the parties. The Inspector welcomes written confirmation, as soon as possible, of areas where agreement has been reached, and where any objections are withdrawn as a result.

8 Inquiry procedure and site visits

Inquiry procedure

- 8.1 The Inspector will broadly follow the procedure set out in the Transport & Works (Inquiries Procedure) Rules 2004.
- 8.2 An outline of the proposed basic procedure is therefore as follows:

- i. The Inspector will invite the Promoter to make an opening statement, outlining its case;
- ii. Those objecting to the proposal will be able to make an opening statement, but this is not essential and can be made at the time of them giving their evidence, which is to be encouraged particularly if the evidence is not long;
- iii. The Promoter would call its witnesses in turn to be examined in chief, with only questions on matters of clarification;
- iv. Each objector would then give its evidence in turn at a particular time slot. They would be heard on the basis of their objection number, unless they indicate to the Programme Officer a preference in terms of availability. The objector would give its opening, if not given at the start. The Promoter would recall those of its witnesses who have provided rebuttal evidence in respect of that particular objector and these witnesses would be open for cross-examination and re-examination. Should the objector wish to cross examine any of the Promoter's other witnesses, the Promoter could also recall those witnesses;
- v. Each objector would then present its case by calling each of its witnesses in turn to give evidence in chief, be cross examined by the Promoter and re-examined. The Inspector may put questions that he has at any stage;
- vi. Each objector who has given evidence may make closing submissions, summarising their cases in light of the evidence. They may do this either at the end of their individual evidence or after completion of all the evidence;
- vii. Closing submissions by the Promoter at the end of the Inquiry.

8.3 The Programme Officer will make a note of any restrictions on attendance by those wishing to participate in the Inquiry, in the programming of the Inquiry. The Inspector welcomes any comments on the above suggested procedure, which is not as yet fixed.

Site visits

- 8.4 The Inspector will familiarise himself with the Order land and application sites and the surrounding area prior to the Inquiry on an unaccompanied basis. He may make further visits during or after the Inquiry, including accompanied visits to relevant places if necessary and/or requested during or after the Inquiry. Arrangements for such visits would be made and announced at the Inquiry.
- 8.5 All accompanied site visits that are requested will be arranged by the Programme Officer at convenient times after opening or following the close of the Inquiry. In accordance with the Inquiry Procedure Rules, the Inspector shall announce during the Inquiry the date and time at which he proposes to make such a visit.
- 8.6 All visits will be for the sole purpose of observing the sites in question. The Inspector will not hear any evidence or submissions on site. It is important that all that has to be said in evidence should be given at the Inquiry itself.

9 Nature and format of evidence

Core Documents

- 9.1 It is likely that some documents will be referred to by many parties. Many of these have already been submitted by the Promoter. A list of these is included in its Statement of Case, and the documents concerned will be available at the Inquiry Library and on the Inquiry website. These addresses are given in the attached Appendix.
- 9.2 Conventionally the 'common' documents are numbered as Core Documents, but the Inspector notes that the documents referred to by the Promoter are numbered as 'BEE'. It will save paper, time and expense if others wishing to refer to the same documents would simply refer to them (by document number, title and internal reference) in their evidence without the need to submit further copies. The Inspector would welcome suggestions made via the Programme Officer for any further documents that could usefully be included as such. The Programme Officer will maintain the schedule of core documents.

Proofs of evidence

- 9.3 Proofs of evidence should be succinct and to the point. In accordance with the Inquiry Procedure Rules, if the proofs are longer than 1500

words, summaries of the proofs must be submitted at the same time as the proofs themselves. Summaries should be shorter than 1500 words. Only summaries and short proofs will be read at the Inquiry, but the full proofs will count as evidence and be open to cross-examination. If, in evidence, reference is made to any other document, which is not included in the list of core documents, a copy of that document (or the relevant extract plus the cover page), must be submitted as an appendix to the proof of evidence. Additional evidence may be given orally, though as far as possible such material would better be included in proofs, and it would be helpful if a written version of that evidence given orally is provided.

9.4 The Inspector urges parties to ensure that proofs of evidence and associated documents conform to the following guidelines:

- Document number on top right corner of cover page and the spine, together with a date and version number of that document;
- Indicate on cover page the name of the party on whose behalf the evidence is given, the name of the witness and the topic(s) covered;
- Number all pages and paragraphs consecutively;
- Text in at least 1½ line spacing;
- Supporting material in appendices, bound separately from the proof and also given document and page numbers;
- Summary bound separately and given document and page numbers, or as a self-contained section in the proof.

Submission of evidence

9.5 The deadline for the submission of **Proofs of Evidence** is **24 October 2017**. The deadline for the submission of **Rebuttals**, if considered necessary, will be **2 weeks prior to the commencement of the Inquiry (7 November 2017)**, unless good reasons are given to extend this date. Under the Inquiries Procedure Rules proofs should be exchanged at the same time. They will be available on the website as soon as possible after these dates. It will be possible to base the Proof on the Statement of Case and/or add to the evidence in Rebuttal should any party wish to delay providing detailed evidence in case an

agreement is reached. The procedure for examining 'Confidential Evidence' will be agreed if the use of such evidence is required.

Copies

- 9.6 The Inspector will require a copy of every Proof, Rebuttal, Appendices and Summary and other documents submitted, and a further copy of these documents will be required for the Inquiry Library. These should be sent to the Programme Officer at the address given in the attached Appendix. Copies will be put on to the website as soon as possible. They are to be provided as hard copies, but it would be helpful to have them also in electronic format.
- 9.7 The Procedure Rules specify that copies must also be sent at the same time to the Promoter, any statutory objector and anyone who has served a SOC. The Promoter will provide a hard copy of its Proofs and Rebuttals to each of the parties.
- 9.8 Objectors will only be required to provide a copy of any documents to the Promoter in addition to those for the Inspector and Inquiry Library. The Programme Officer will be able to provide details. The Rules indicate that only 1 copy is to be sent. The parties can negotiate directly if they seek additional copies of each other's evidence.

Opening and closing submissions

- 9.9 The Procedure Rules require those making closing submissions to provide the Inspector with copies of these in writing before the close of the Inquiry. These should if possible be drafted with a view to incorporating them into the report as the case for the party concerned. However, the Inspector reserves the right to edit them and to add material drawn from evidence given orally or in documentary form. It would therefore be helpful if copies in electronic format could also be provided.
- 9.10 There is no equivalent requirement in respect of opening submissions, but it would help the Inspector if hard copies of the texts of opening submissions would be provided at the time of delivery.

Presentation of Evidence

- 9.11 It would be helpful if the Promoter and any other parties wishing to appear at the Inquiry provide to the Programme Officer as soon as

possible an indication of how long they intend to take in giving their evidence in order for a draft programme to be provided on the website.

10 Document numbering and availability

- 10.1 As indicated above, every document should be numbered. The numbering system should be kept as simple as possible, but numbers should be prefixed with an abbreviation to indicate the party (preferably the Objector number, and not the witness) on whose behalf it is submitted, followed by a sequential number. The Programme Officer will send some details about referencing documents in due course.
- 10.2 Each party should keep an up-to-date list of their documents, providing a copy of the list to the Programme Officer at the beginning of the Inquiry with an update if necessary at the end.
- 10.3 In addition to the documents exchanged, a complete set of Inquiry documents will be available in the Inquiry Library held by the Programme Officer throughout the proceedings. Prior to the Inquiry copies will be available for inspection at the address given in the attached Appendix. Most of these documents will also be available as soon as possible after their receipt on the Inquiry website, referred to above. Letters of objection will not be put on the website, but those in the public domain will be redacted.

11 Inquiry Programme

- 11.1 The Programme Officer will be contacting all parties to gain information needed to draw up a programme for the Inquiry. This will be of benefit to all concerned and aid the smooth running of the proceedings and efficient use of time. The Inspector urges parties to be as co-operative as possible in this process.
- 11.2 The draft Programme will be available on the website and in the Inquiry Library. It will remain in draft and be subject to change throughout the Inquiry. It is important that people appearing are available when required, and the onus will be on them to keep in touch with the progress of the Inquiry. If they are not present when required, the Inquiry may proceed without them.

M J Whitehead

INSPECTOR

APPENDIX

Contact Details and Addresses

The Programme Officer's contact details

Telephone no: 07968 441420.

Email address: info@owen-roberts.co.uk.

Address: 92 Harcourt Drive, Harrogate, North Yorkshire HG1 5AB.

Inquiry Library and Website

The website is at **www.twainquiry.co.uk**

In accordance with Rule 7 of the Transport and Works (Inquiries Procedure) Rules 2004, a copy of every document or the relevant part of any document which the Promoter intends to refer to or put in evidence, together with a copy of every Statement of Case served by every other party and of every document served with them (once received and copied by the Promoter), may be inspected free of charge at the following locations and, where practicable and subject to payment of a reasonable charge, copied, by TWA Support Officer, Midland Metro Alliance, 4th Floor, Alpha Tower, Suffolk Street Queensway, Birmingham B1 1TT, telephone 07824 301175.

Location to view documents

The Library of Birmingham, Centenary Square, Broad Street, Birmingham B1 2ND between 1100 hours and 1900 hours Mondays and Tuesdays and 1100 hours and 1700 hours Wednesdays to Saturdays and not on Sundays.

During the Public Inquiry, all documentation will also be made available to view at the Inquiry venue.