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Proof of Evidence – Town Planning
Matters

On behalf of objection by Martineau Galleries
No. 1 Ltd. and Martineau Galleries No. 2 Ltd.

Proposed Midland Metro (Birmingham
Eastside Extension) Order

Refs: DPI/P4065/17/9 and TWA/16/APP/08

October 2017

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Client

Martineau Galleries No. 1 Ltd and Martineau Galleries No. 2 Ltd.

Our Reference

HAMQ3005

24 October 2017

Executive Summary

1. My name is Andrea Arnall. I am a Director at Turley Associates (trading as 'Turley') and am based in the company's Midlands office in Birmingham. I am instructed to present evidence to this Inquiry on behalf of Martineau Galleries No. 1 Ltd. and Martineau Galleries No. 2 Ltd. ("the objector"). I hold a Bachelor of Arts degree with honours in Urban and Regional Planning and a Diploma in Town Planning (gained with merit) both from Coventry University.
2. I have acted for the objector in respect of the site since June 2013 and I am very familiar with this site and the relevant planning policies affecting it.
3. My evidence deals principally with the effect of the proposed land acquisition on the objector's ability to bring forward its redevelopment proposals for Martineau Galleries which are compliant with relevant national and local planning policy.
4. My evidence relates to grounds 1 and 2 as set out in the objector's Statement of Case, namely, that:
 - "The current scheme proposals and the power to acquire set out in the draft Order goes beyond the power necessary to deliver the scheme and as such represents an unjustified interference with the objector's's property rights; and
 - The acquisition of rights to attach equipment to the buildings comprising plots 5 and 26 is unjustified"
5. The Martineau Galleries site (MG) is an area within the city centre, close to the proposed High Speed 2 ("HS2") terminus at Curzon Street. It is bounded by Priory Queensway to the north, Moor Street Queensway to the east, Albert Street/New Meeting Street/Bull Street to the south and Corporation Street to the west. Currently the site comprises the NCP multi-storey car park, The Square Shopping Centre and the block known as Kings Parade fronting High Street/Dale End.
6. The site is in need of regeneration and would benefit from comprehensive regeneration. This is reflected in Birmingham City Council's adopted Development Plan (The Birmingham Plan 2031) where it is identified as a 'Major Development Site' (Document Ref BEE/E3, page 41).
7. Other key planning policy aspirations relevant to the site include:
 - An aspiration to provide a high quality environment and visitor experience (BDP policy GA1)

- All developments to achieve enhanced connectivity to surrounding areas, create high quality environments and integrate with public transport including HS2 (BDP policy GA1).
 - To maximise the area's role as *'an area for learning and technology realising its extensive development opportunities and the integration of any proposals for the HS2 station'* (BDP policy GA1)
 - Reinforce or create a positive sense of place and local distinctiveness, with design that corresponds to site conditions and the local area context (BDP policy PG3)
 - Make the best use of existing buildings and efficient use of land in support of the overall development strategy (BDP policy PG3)
8. In 2006, outline permission was granted for major retail-led mixed use development of MG comprising 266,000 sq m of floorspace (GIA). It provided for 85,000 sqm of retail floorspace of which no more than 25% shall be for Use Classes A2, A3 and A4, 25,000 sq m maximum office floorspace (10,000 sq m minimum), between 850 and 340 dwellings, 30,000 sq m hotel (as an alternative to the residential accommodation), 5,000 sq m cultural uses, 20,000 sq m of leisure and a casino, 2550 car parking spaces.
9. This planning permission expired in December 2014, having not been implemented as a result of (inter alia) conflicting objectives of the three parties with an interest in MG. I refer to the evidence of Ms Kenney here as this was prior to my involvement.
10. Since 2006 and the outline approval, a number of changes have occurred that are relevant to the objector's strategy for bringing forward redevelopment:
- In March 2010, HS2 Limited reported on the preferred route for HS2 with a stop at Curzon Street opposite the MG site. This increased the prominence/importance of the MG site and prompted Birmingham City Council to review the development potential of the area, later producing the Birmingham Curzon HS2 Masterplan.
 - In late 2013, public consultation on two proposed routes for the Birmingham Metro Extension Phase 2 took place and the objector was engaged in this process with the Metro Alliance, in seeking to understand the implications and protect its ability to bring forward the redevelopment of MG.
 - The development and opening of Grand Central and a major refurbishment of The Mailbox providing additional retail and suggesting that a retail-led development at MG was no longer likely to be appropriate.

11. I have acted for the objector since 2013 to help them bring forward an alternative form of development for MG in response to the changes I have described. This has included the submission of representations to Birmingham's planning policy, seeking an alternative form of redevelopment for MG which moves away from retail-led to commercial-led redevelopment.
12. There is a compelling planning case for redevelopment of the objector's site and the objector's intention for redevelopment is consistent with Birmingham City Council's development plan policy and other planning guidance, including the Framework (NPPF)
13. There is specific planning policy support for redevelopment of MG at all levels and I do not believe its suitability for redevelopment is in question. This explicit policy support has been in existence for some time and has remained despite the changes that have occurred including, notably, the emergence of the Metro Extension.
14. Planning permission has been granted on three separate occasions between 1998 and 2006 and whilst those permissions were not implemented, they demonstrate that there is Local Authority support for comprehensive redevelopment.
15. As planning applications must be determined in accordance with the Development Plan and the redevelopment of MG is supported by the Birmingham Development Plan, I see no reason why planning permission would not be forthcoming in principle if a revised planning application for redevelopment was submitted, provided that the proposal complied with its policies.
16. The objector's proposals for redevelopment of MG are being delayed because of the uncertainty caused by the Metro Extension proposals. This delay has meant the applicant has been unable to prepare a planning application which risks the site coming forward in time for the opening of HS2 and risks BCC's Curzon Masterplan objectives not being fully achieved, to the detriment of the area's potential.
17. The requirement for catenary to be affixed to future buildings within the objector's land creates uncertainty in terms of preparing plans for redevelopment and would potentially cause issues with visual impact, contrary to BCC's aspirations for the Curzon Masterplan area
18. The proposed permanent acquisition of land for the Metro Extension by the promoter goes further than is necessary for the operational tramway and could result in the redevelopment of MG being sub-optimal. The evidence of Ms Ruth Jeffs confirms that some land is not needed and thus should not be acquired permanently. The proposed land to be acquired could and should form part of a comprehensive redevelopment scheme for MG, led by the objector; that is capable of delivering BCC's planning policy

objectives for regeneration alongside the delivery of HS2. If the WMCA was to acquire this land, it will cause further delay in bringing the site forward and also risks the site not securing BCC's policy aspirations as there is no certainty that this land can be acquired by the objector subsequently, and more importantly be delivered in time for the opening of HS2.

19. The temporary possession of land not required for the operational tramway would be more appropriate and would be in line with the provisions contained within Part 2 Chapter 1 of the Neighbourhood Planning Act 2017 (not yet in force). The temporary acquisition of land would provide the certainty that an interest in this land would be retained by the objector and included, with confidence, in a planning application to ensure a satisfactory form of development which is fully aligned to planning policy objectives, with the prospect of earlier delivery of redevelopment than if acquired by the WMCA.

1. Introduction

Qualifications

- 1.1 My name is Andrea Arnall. I am a Director at Turley Associates (trading as 'Turley') and am based in the company's Midlands office in Birmingham. I am instructed to present evidence to this Inquiry on behalf of Martineau Galleries No. 1 Ltd. and Martineau Galleries No. 2 Ltd. ("the objector"). I hold a Bachelor of Arts degree with honours in Urban and Regional Planning and a Diploma in Town Planning (gained with merit) both from Coventry University.
- 1.2 I am a member of the Royal Town Planning Institute. I have over 16 years' experience working as a planning consultant, and just over nine of those years have been based in Birmingham. My experience includes a large number of planning applications for retail, leisure and commercial developments for a large range of clients including developers, landowners and fund managers.
- 1.3 I have acted as an expert planning witness at inquiry on one previous occasion in respect of retail proposals that were the subject of a planning appeal (Town & Country Planning Act, Section 78) and where matters of planning policy compliance were important considerations.
- 1.4 I have acted for the objector in respect of the site since June 2013 and I am very familiar with this site and the relevant planning policies affecting the site.

Scope of Evidence

- 1.5 My evidence sets out the planning reasons for an objection to the proposed Order by the West Midlands Combined Authority to authorise the acquisition of rights and land to construct the Metro Extension. My evidence relates to grounds 1 and 2 as set out in the objector's Statement of Case, in that:
 - (i) "The current scheme proposals and the power to acquire set out in the draft Order goes beyond the power necessary to deliver the scheme and as such represents an unjustified interference with the objector's property rights; and
 - (ii) The acquisition of rights to attach equipment to the buildings comprising plots 5 and 26 is unjustified"

- 1.6 My evidence deals principally with the effect of the proposed land acquisition on the objector's ability to bring forward its redevelopment proposals for Martineau Galleries which are compliant with relevant national and local planning policy.
- 1.7 My evidence should be read in conjunction with that of the other witnesses for the objector, namely Ms Ruth Jeffs of Waterman and Ms Carolyn Kenney of Hammerson.
- 1.8 My evidence demonstrates, including by cross-reference to the evidence of others, that:
- There is a compelling planning case for redevelopment of the objector's site, Martineau Galleries, and the objector's intention for redevelopment is consistent with Birmingham City Council's (BCC) development plan policy and other planning guidance, including the Framework (NPPF)
 - Permission for redevelopment has been granted previously indicating that planning permission should be capable of being secured
 - The objector's proposals for redevelopment of Martineau Galleries are being delayed because of the uncertainty caused by the Metro Extension proposals
 - The requirement for catenary to be affixed to future buildings within the objector's land creates uncertainty in terms of preparing plans for redevelopment
 - The permanent acquisition of land for the Metro Extension as proposed goes further than is necessary to operate the tramway and would result in the redevelopment of Martineau Galleries being sub-optimal
 - The power exists for the promoter to seek the temporary possession of land not required for the operational tramway. This would be in line with the emerging legislation set out in the Neighbourhood Planning Act 2017

Structure of Evidence

- Section 2 - The Site and Factual Background
- Section 3 - Planning Policy Context: Development Plan
- Section 4 - Planning Policy Context: National Planning Policy Framework
- Section 5 - Effect of Land Acquisition on Redevelopment of Martineau Galleries
- Section 6 - Summary and Conclusions

2. The Objector's Site and Factual Background

The Martineau Galleries Site

- 2.1 The Martineau Galleries site (MG) is an area within the city centre, close to the proposed HS2 terminus at Curzon Street. It is bounded by Priory Queensway to the north, Moor Street Queensway to the east, Albert Street/New Meeting Street/Bull Street to the south and Corporation Street to the west. Currently the site comprises the NCP multi-storey car park, The Square Shopping Centre and the block known as Kings Parade fronting High Street/Dale End.
- 2.2 The site is in need of regeneration and would benefit from comprehensive regeneration. This is reflected in BCC's adopted Development Plan (The Birmingham Plan 2031) where it is identified as a 'Major Development Site' (Document Ref BEE/E3, page 41).
- 2.3 The site is largely within the single ownership of the objector, with the intention to facilitate its redevelopment.
- 2.4 The southern part of the site is directly affected by the Metro (Birmingham Eastside Extension).

Planning History to Martineau Galleries

- 2.5 The Martineau Galleries site was historically part of plans by the Birmingham Alliance ('The Alliance') for three major retail schemes in the city. The Alliance was a development consortium including Land Securities, Henderson and Hammerson (the objector) formed in 1999. The three major retail schemes were Martineau Place, Bullring and Martineau Galleries. Martineau Place was completed in 2001 and Bullring in 2003. MG is the only development not yet to be delivered.
- 2.6 Prior to joining the Alliance, the objector owned the old Bullring Shopping centre and the Rotunda and these properties were pooled when the Alliance was formed. The factual background to this is covered in more detail in the evidence of Ms Kenney.
- 2.7 Martineau Galleries was granted outline planning permission initially in 1998, prior to the objector's involvement, for *'a multi-storey city centre development comprising retail, leisure, cinema, health, hotel, car parking and associated facilities and highway works'*. It provided 117,796 sq m of floorspace.

- 2.8 The Alliance varied the outline planning permission in 2002 (ref: C/04337/02/FUL) to provide further time for reserved matters to be submitted. This variation was granted in November 2002 with a requirement to submit reserved matters by November 2010 and implement the permission by November 2009 or within 2 years of the final approval of reserved matters (whichever was the later).
- 2.9 The Alliance decided to not to pursue this scheme and began work on a fresh outline scheme in early 2005.
- 2.10 In 2006, the Alliance secured a revised outline permission for a similar major retail-led mixed use development comprising 266,000 sq m of floorspace (GIA) (a copy of the planning permission is at **Appendix 1**).
- 2.11 It provided for 85,000 sqm of retail floorspace of which no more than 25% shall be for Use Classes A2, A3 and A4, 25,000 sq m maximum office floorspace (10,000 sq m minimum), between 850 and 340 dwellings, 30,000 sq m hotel (as an alternative to the residential accommodation), 5,000 sq m cultural uses, 20,000 sq m of leisure and a casino, 2550 car parking spaces.
- 2.12 This planning permission expired in December 2014, having not been implemented as a result of (inter alia) conflicting objectives of the three parties with an interest in MG. I refer to the evidence of Ms Kenney here as this was prior to my involvement.
- 2.13 Condition C27 of this permission refers to the Birmingham City Centre Metro Extension (and inter alia, requires a detailed scheme layout and construction management plan to be submitted) but it is relevant to note that this relates to Phase 1 of the Metro Extension along Bull Street and Corporation Street that was completed last year, not Phase 2 which is subject to this current proposed Order.
- 2.14 Since 2006 and the outline approval, a number of changes have occurred that are relevant to the objector's strategy for bringing forward redevelopment:
- (a) In March 2010, HS2 Limited (having been formed in January 2009) reported on the preferred route for High Speed 2 (HS2) with a proposed stop at Curzon Street opposite the MG site. This increased the prominence/importance of the MG site and prompted BCC to review the development potential of the area, later producing the Birmingham Curzon HS2 Masterplan (July 2015) (Document ref: BEE/E19).
 - (b) In late 2013, public consultation on two proposed routes for the Birmingham Metro Extension Phase 2 took place and the objector was engaged in this process with the Metro Alliance, in seeking to understand the implications and

protect its ability to bring forward the redevelopment of MG. We attended a series of regular meetings up until May of this year and provided our client's observations on the proposals in those meetings and in subsequent correspondence as confirmed in the promoters' record of engagement. BCC was intermittently involved in the process and expressed a desire to see the proposals for MG come forward.

- (c) In February 2014, the first phase of funding Birmingham Metro Extension was secured providing more certainty that the proposals may come forward.
- (d) The development and opening of Grand Central in September 2015, providing additional retail and suggesting that a retail-led development at MG was no longer likely to be appropriate.
- (e) The extensive remodelling and refurbishment of The Mailbox in early 2016, further suggesting that MG would need to come forward in an alternative manner.

2.15 I have acted for the objector since 2013 to help them bring forward an alternative form of development for MG in response to the above changes. This has included the submission of representations to Birmingham's planning policy, seeking an alternative form of redevelopment for MG which moves away from retail-led to commercial-led redevelopment. As part of this, comments on behalf of the objector were made to consultation drafts of key emerging planning policy documents comprising the Birmingham Curzon Masterplan and the Birmingham Development Plan.

2.16 In respect of the Curzon Masterplan, for example, we commented on the consultation draft Masterplan in April 2014 indicating that:

'The Alliance supports the greater potential of the MG site as an office-led scheme as shown in plan 10.' (Plan 10 showed business uses with a focus around a square).

'We are pleased to see this concept recognised as we have been promoting it for 5 years as retail-led development in this location would no longer be appropriate as it has far greater potential to capitalise on the HS2 opportunity as an office-led scheme'.

2.17 The objector's objectives were supported by BCC and are reflected in those documents (outlined in the next section of my evidence).

2.18 Based on the matters outlined above and the evidence of Ms Kenney, this demonstrates a clear commitment to and intention to facilitate the redevelopment of MG in line with Birmingham City Council's aspirations for the area.

3. Planning Policy Context

Introduction

- 3.1 In this section I provide my assessment of the relevant development plan policies for the area and the Martineau Galleries site in particular including non-statutory guidance, including my views on the level of weight that they should be given, should a planning application come forward. I seek to demonstrate that the objector's aspiration for the redevelopment of Martineau Galleries is consistent with BCC's development plan policies and guidance.
- 3.2 My assessment of the weight to be given to the relevant development plan policies has also considered the advice contained in the Framework.
- 3.3 The planning policy context for the site's redevelopment is established in the adopted Birmingham Development Plan (BEE/E3), the adopted Curzon Masterplan (BEE/E19), the Big-City Plan (non-statutory (BEE/E22)), and the Unitary Development Plan to a lesser degree (BEE/E38).

Adopted Development Plan

- 3.4 The adopted Development Plan for this site comprises the Birmingham Development Plan (BDP) (2016) and saved policies of the UDP. It is up to date, and generally accords with national planning policy and guidance so in my view can be given full weight.

Martineau Galleries

- 3.5 MG is situated within Birmingham's City Centre Retail Core as defined by policy GA1 (City Centre) and Plan 5 (City Centre Spatial Plan). Policy GA1 sets out that the City Centre will be promoted as the focus for retail, office, residential and leisure activity within the context of the wider aspiration to provide a high quality environment and visitor experience. My view is that the redevelopment of MG will clearly meet with this objective.
- 3.6 This policy further describes the aspiration for all developments to achieve enhanced connectivity to surrounding areas, create high quality environments and integrate with public transport including HS2. The clear requirement is that to be acceptable, developments must meet these additional criteria and it is therefore important that MG meets this too, in order to comply with policy.
- 3.7 MG is also specifically identified on the BDP Plan 5 (City Centre Spatial Plan) as a 'major development site'. The plan shows the site partially situated within the Eastside

wider area of change. Paragraph 5.22 of the BDP notes that to achieve future growth, these five wider areas of change have been identified to create new distinctive places. In my view this underlines the importance of creating a quality place at MG, on the doorstep of HS2.

- 3.8 The Eastside area of change which includes part of Martineau Galleries is identified to maximise its role as *'an area for learning and technology realising its extensive development opportunities and the integration of any proposals for the HS2 station'*.
- 3.9 There is no doubt in my mind that comprehensive redevelopment of the MG site is supported by up to date adopted policy which can be given full weight in terms of BCC's aspirations for the site. Such development should maximise the site's prime position close to the HS2 station at Curzon and create an exceptionally well connected and distinctive place in order to achieve detailed policy objectives.

Other policies

- 3.10 In terms of more general policies applying to development across the City, **Policy PG3 'Place Making'** establishes that all new development will be expected to demonstrate high design quality, contributing to a strong sense of place. Amongst other principles, the policy states that new development should:
- Reinforce or create a positive sense of place and local distinctiveness, with design that corresponds to site conditions and the local area context;
 - Create safe environments that design out crime and promote positive social interaction and natural surveillance;
 - Provide attractive environments that encourage people to move around by cycling and walking;
 - Ensure that private external spaces, streets and public spaces are attractive, functions, inclusive and able to be managed for the long term;
 - Support the creation of sustainable neighbourhoods; and
 - Make the best use of existing buildings and efficient use of land in support of the overall development strategy.
- 3.11 This policy provides guidance on the form of all development and is relevant to the requirements for MG in terms of layout and integration with the surrounding environment.

Unitary Development Plan ('UDP')

- 3.12 The only policies in the UDP still forming part of the development plan are those within Chapter 8 and paragraphs 3.14 to 3.14D. These will continue as such until the adoption of the Council's proposed Development Management Document.
- 3.13 There are no relevant policies in Chapter 8 of the UDP specifically relative to MG, though paragraphs 3.14 to 3.14D relate to the Design of New Development. Paragraph 3.14D establishes that applications for new development will be assessed against the following principles:
- The City Council will have particular regard towards the impact that the proposed development would have on the local character of an area, including street patterns, building lines, boundary treatments, open spaces and landscape, scale and massing, neighbouring uses;
 - People should be able to move around freely, easily and safely throughout the City: therefore in new developments, streets and routes should generally link up rather than take the form of cul-de-sacs and dead ends;
 - Landscaping should be an integral part of all major development proposals, and this should be designed to complement the new development and the surrounding area.
- 3.14 It is clear in more general design terms that these are the key aspects BCC will be looking for in all developments so are directly relevant to the delivery of the MG development. In relation to MG I consider building lines, legibility, massing and landscape to be some of the most important design considerations that will be influenced by the land available for redevelopment.

Other guidance

- 3.15 BCC has produced a series of supplementary (and non-statutory) masterplans which are widely used to provide more specific guidance to developers about development priorities and the required standard for developments to meet in the City. My view is that these reinforce the support for a high quality and well-connected development of MG.

Curzon Masterplan (2015)

- 3.16 The Curzon Masterplan is a non-statutory document supporting the BDP policies prepared to showcase development opportunities around the new HS2 station. The Masterplan has a 20 year development horizon post the completion of HS2, though it makes clear at the outset that HS2 in itself will accelerate the growth potential of the City Centre and Eastside (within which MG is located).

- 3.17 It identifies MG as *'Martineau Square/Dale End'* and specifies it as a *'prime mixed use development scheme as the opening of HS2 draws near and thereafter'* (page 48). Whilst there is no timescale attributed to delivery of any of the proposals forming part of the Masterplan, it is desirable to have sites such as MG developed in time for the proposed opening of HS2 in December 2026, or at the very least for them to be planned to take account of the arrival of HS2 as advocated in the Masterplan.
- 3.18 The masterplan endorses the site as *'an opportunity for large floorplate grade-A office space immediately opposite Birmingham Curzon station'*. It goes on... *'The development will become an extension to the Colmore Business District and Snow Hill to the West'* and anticipates a *'new public square with strong pedestrian links, retail and leisure uses at ground floor and residential uses on upper floors'*.
- 3.19 It further states that *'An extension to the Metro network will serve the site with a new station at Albert Street where the Martineau Square blocks will front on to the new Curzon Station Square at Moor Street'*. The location of the Metro Stop, as shown in the masterplan, is much further east at the junction of Moor Street Queensway than the actual proposed stop location. I understand that the decision to locate the stop further east, closer to MG, is because of the extent of buses using Moor Street Queensway and the potential conflict that could arise.
- 3.20 The masterplan promotes and endorses the site's redevelopment, and states that *'the Martineau development will be on the doorstep of the new international railway station with opportunities for high-quality commercial office space with direct connections through to the existing business district'*. These aspirations are in line with my comments to BCC submitted on behalf of the objector during the consultation stage of the masterplan's development.
- 3.21 The masterplan (Plan 10 retail – page 49) shows a series of street blocks with the new square central to the scheme and a strong east-west pedestrian link, with the proposed Midland Metro route running along the southern boundary of the site down Bull Street and along Albert Street. The masterplan does not show the extent of land required for the Metro as this was clearly not its purpose, but it does show a development block on land subject to proposed acquisition by WMCA, comprising parts of plots 14-16. Areas of green space and public space are also shown on the plan but the area proposed for acquisition is not shown for this use. The use of the land beyond that to be temporarily landscaped (plot 18) as suggested by the WMCA would not in my view align with BCC's aspirations and it has the potential to compromise the ability for the objector to demonstrate an appropriate form of development in line with the masterplan objectives. I discuss this further in Section 4.

- 3.22 On page 30, BCC's aspirations for the Metro corridor within the Curzon Promenade (identified on plan 7 page 35 as being the area to the north of the HS2 station running broadly east-west past Hotel La Tour and to Moor Street Queensway) are set out comprising:

'A green corridor utilising grass and planting within and surrounding the track and opportunities for catenary-free running should be prioritised to maintain an open park-like feel'. [my emphasis]

- 3.23 Specifically in relation to the visitor experience of arrival at Curzon Street, the Masterplan confirms that *'the opportunity to use catenary free running through Curzon Square will be essential in order to mitigate any potential visual impact on the setting of listed buildings'*.
- 3.24 These statements relate to the immediate areas around the station, and whilst they do not refer to MG specifically, they underline the importance BCC places on visual impact of such fixings because of the enhanced profile of the area as an arrival point. Now that the proposed Metro stop that was shown on the plan as being within the Curzon Promenade is now further east at MG, I believe BCC's policy aspiration for catenary free running would extend to MG, with the objective being to minimise potential visual impact. Given that catenary is proposed and is proposed to be affixed to buildings within the MG demise, the minimisation of visual impact of this remains in my view, a relevant planning consideration which is recognised in BCC guidance.

Big City Plan (2011)

- 3.25 The Big City Plan is a non-statutory City Centre Masterplan prepared by BCC. It is endorsed as a framework for future development and regeneration of the city centre and identifies the Council's priorities in regards to areas that will grow the City Core by 25%.
- 3.26 The Plan confirms MG is identified for redevelopment and it anticipates the prospect of HS2 arriving in Eastside. The Big City Plan notes that MG will 'become particularly attractive for offices' should the High Speed 2 terminus arrive. The Plan also adds that the 'retail component of the scheme will need to be significant in order to retain a critical mass of shoppers to ensure the revitalisation and vitality of the High Street'. This latter comment is reflective of the then extant planning permission for retail-led redevelopment and states it will be a significant component to complement the City Centre. It does not take account of the most recent aspirations expressed in the Birmingham Curzon Masterplan as it was produced at a time when there was less certainty around HS2, having been drafted during 2008/9 (with adoption in 2010).
- 3.27 Some of the specific objectives in the Big City Plan have been replaced by more up to date guidance in the Curzon Masterplan. Whilst the major retail component is no longer

an aspiration of the objector or BCC, the significant scale of development and scope for high quality office development envisaged remains as does the commitment to regeneration generally.

National Planning Policy Framework

3.28 In this section I deal with the relevance of the Framework and the weight it is to be given as a material consideration in supporting the redevelopment of MG. In this context, I consider the BDP to be up to date and in line with the Framework itself, so it is that document that should be given full weight in planning terms. The Framework, alongside the Curzon Masterplan and Big City Plan are material considerations which support the redevelopment of MG.

Relevant Policies of the Framework

- 3.29 The Framework confirms at Paragraph 6 that the purpose of the planning system is to contribute to sustainable development, with Paragraphs 18 to 219 reflecting what this means for the purpose of decision taking and plan-making.
- 3.30 Paragraph 7 further sets out that there are three dimensions to sustainable development: economic, social, and environmental which give rise to the planning system needing to perform a number of roles. Paragraph 8 explains that these roles should not be treated in isolation because they are mutually dependent.
- 3.31 I do not intend to rehearse in detail all of the relevant paragraphs of the Framework here, as they are now well established and commonly applied. However, there are certain key aspects that are worth highlighting in terms of the overall emphasis and direction of Government planning policy as represented by the Framework.
- 3.32 In particular in this case:
- Supporting growth by providing a strong and competitive economy through investment
 - Promote competitive town centres, including allocating sites
 - Delivering a wide choice of quality homes
 - Plan positively for high quality inclusive design, including the optimisation of a site's potential
 - Deliver connections between people and places and the built environment

- Permission should be refused for development of poor design or if it does not take opportunities to improve the way an area functions

3.33 The allocation of the site for redevelopment in development plan policy is supported by the objectives set out in the Framework. I also consider the Framework as a material consideration, to support the redevelopment of MG.

Conclusions

3.34 There is specific planning policy support for redevelopment of the MG site at all levels and I do not believe its suitability for redevelopment is in question. This explicit policy support has been in existence for some time and has remained despite the changes that have occurred (those which I refer to in section 2) including, notably, the emergence of the Metro Extension.

3.35 As set out in section 2, planning permission has been granted on three separate occasions between 1998 and 2006 (one of which was a 'renewal') and whilst those permissions were not implemented, they demonstrate that there is local planning authority support for comprehensive redevelopment.

3.36 As planning applications must be determined in accordance with the Development Plan and the redevelopment of MG is supported by the BDP, I see no reason why planning permission would not be forthcoming in principle if a revised planning application for redevelopment was submitted, provided that the proposal also complied with relevant policies as set out above. I turn to this issue in the next section of my evidence in so far as the extent of land take arising from Metro Extension affects the ability to create a fully policy-compliant development.

3.37 The Curzon Masterplan sets out Birmingham City Council's aspirations for MG and the area around the proposed HS2 station. This includes an aspiration for catenary free trams as a means to mitigate the potential for visual impact. It follows that any proposal for MG – as a matter of planning policy – should consider visual impact for any necessary catenary.

4. Effect of land acquisition on objector's redevelopment

Delay and uncertainty

- 4.1 The evidence of Ms Kenney confirms the commitment by the objector to bring forward the MG site for redevelopment. However, she confirms the difficulties in taking a decision to progress towards a planning application because of the uncertainty about the extent of land needed for the Metro Extension and how that affects the development.
- 4.2 Of course, a planning application can include land that is outside the applicant's control but this is not the issue here. The issue is about firstly having certainty about whether the land will be acquired by the promoter, secondly, how much will be acquired and thirdly, whether and on what terms the land can be re-acquired by the objector to facilitate comprehensive redevelopment that it is capable of delivery alongside HS2. The objector does not have that certainty which understandably makes it both undesirable and difficult in practical terms to proceed to a planning application.
- 4.3 Plots 4, 6, 11-16, 20 and 25 are shown shaded blue on Works and Land Plans – Sheet No.1 [BEE/A11] comprising land within the 'limit of deviation and of land to be acquired or used'. They thus fall within the 'permanent limits' as defined by article 2 of the draft Order. As such the draft Order, if approved, would give the promoter power to permanently acquire the full extent of MG's interests in each of these plots of land. As the evidence of Ms Ruth Jeffs confirms, not all of this land is necessary for the operation of the tramway.
- 4.4 This land could and should form part of a comprehensive redevelopment scheme for MG that is capable of delivering BCC's planning policy objectives for regeneration alongside the delivery of HS2. The most realistic developer of this land, given its adjoining landholdings, is the objector. If the WMCA was to acquire this land, it will cause further delay in bringing the site forward and also risks the site not securing BCC's policy aspirations as there is no certainty that this land can be reclaimed by the objector subsequently, and more importantly be delivered as part of a comprehensive redevelopment.
- 4.5 Similarly to the uncertainty caused by the proposed acquisition of land, the requirement for catenary on any buildings within the objector's land causes uncertainty in planning for redevelopment. I understand that the proposed right extends to future buildings and a right to attach catenary to them reduces the objectors flexibility to redevelop the MG

site in a way that best achieves planning policy objectives because of the need to take into account potential fixings.

- 4.6 Further, I consider that the effect of catenary equipment in aesthetic terms cannot be quantified by the objector at present and makes it difficult to plan an acceptable form of development and provide assurance that this would meet planning policy objectives.
- 4.7 I note that the Curzon Masterplan seeks catenary-free running as a priority throughout the area known as Curzon Promenade, adjacent to the HS2 station. The justification for this is associated with the listed buildings around Curzon Street and to create an open park-like feel to the area. Given the importance of the area as an arrival point; and I include the Metro stop at MG as part of this, the effect of catenary on the visual amenity of the area is an important policy consideration that the objector will need to take into account. Because there is no certainty whether catenary fixings will be required, this makes it difficult for the objector to make decisions about the form of development and as such this is causing delays in bringing forward its proposals for MG.
- 4.8 In summary, the potential acquisition of land and ability to affix catenary to any subsequent buildings is making it difficult for the objector to bring forward a planning application. Delay in submitting a planning application and subsequently securing permission risks BCC not delivering its important policy aspirations for the regeneration of the site including its connectivity with HS2. It risks the site not being delivered in time for the opening of HS2 in 2026 which would be a highly undesirable.

Compromised Scheme

- 4.9 I am of the view that delivery of the Metro Extension and MG redevelopment are compatible. However, permanent acquisition of the objectors land could also compromise the ability of the redevelopment to successfully integrate into its environment in line with the policy objectives set out in section 3.
- 4.10 As set out in the objector's statement of case, the extent of land acquisition is considered unnecessary to deliver the Metro Extension. The evidence of Ms Ruth Jeffs demonstrates that the land comprising plots 4, 6, 11-16, 20 and 25 is not all necessary for the operation of the Tramway. On this basis, the extent of acquisition is excessive and would in my view, not represent an efficient or effective use of land in an inner urban location. The contribution this land could make to a sense of place and to wider fulfilment of planning policy objectives would be far greater if it was included in the redevelopment of MG, facilitated by the objector.
- 4.11 It is my view that the MG site could still be comprehensively redeveloped if the land subject to this Order was acquired. However, if it is not included in the comprehensive

development of MG it is my view that such a proposal would potentially fail to fully meet detailed planning policy objectives and would not represent a sustainable use of the land. I seek to expand upon my reasons for reaching this view below with regards to the following dis-benefits of a redevelopment scheme for MG which does not include land identified for permanent acquisition:

- (a) A large area of land adjacent to the Metro would be significantly under-utilised, failing to maximise the use of urban land in line with the Government's planning priorities and achieve BDP policy aspirations that promote efficient use of land in line with the overall growth strategy (Policy PG3)
- (b) The site is centrally located, well connected and should be intensively developed to maximise the ability for growth in the City Centre Core – if not included as part of a comprehensive development, it is likely to be more difficult to achieve this objective
- (c) It would not create a well-integrated development with exceptional public realm because there would be a clear 'gap' in the built frontage between MG and the key retail route along the High Street
- (d) It risks not delivering the quality of place required by BDP policy PG3, and the objectives for appropriate building lines and massing of development required by UDP policy 3.14.
- (e) It has the potential to compromise the ability to properly front development blocks to the Metro and create strong pedestrian links to the Colmore Business District in line with the Curzon Masterplan requirements.
- (f) The residual land will be more difficult to develop on its own than as part of the MG redevelopment

4.12 Exclusion of this land is not a sound way, in my view, to plan for development of a key city centre location on the doorstep of HS2.

Permanent Acquisition

4.13 Whilst not yet in force, Part 2 Chapter 1 of the Neighbourhood Planning Act 2017 provides for land subject to powers of compulsory acquisition to instead be used temporarily. The draft Order at issue in this application also provides that land may be used temporarily, rather than compulsorily acquired. In my view, these principles could be applied to that part of the MG site not required for the operational needs of the tramway. Temporary acquisition would provide certainty that this land would be

released to the objector and thus could be included, with confidence, in a planning application to ensure a satisfactory form of development which is fully aligned to planning policy objectives, with the prospect of earlier delivery of redevelopment, than if it acquired permanently by the WMCA.

5. Summary and Conclusions

5.1 My evidence demonstrates, including by cross-reference to the evidence of others, that:

- There is a compelling planning case for redevelopment of the objector's site, MG, and the objector's intention for redevelopment is consistent with BCC's development plan policy and other planning guidance, including the Framework (NPPF)
- There is specific planning policy support for redevelopment of the MG site at all levels and I do not believe its suitability for redevelopment is in question. This explicit policy support has been in existence for some time and has remained despite the changes that have occurred including, notably, the emergence of the Metro Extension
- Planning permission has been granted on three separate occasions between 1998 and 2002 (one of which was a 'renewal') and whilst those permissions were not implemented, they demonstrate that there is Local Authority support for comprehensive redevelopment
- As planning applications must be determined in accordance with the Development Plan and the redevelopment of MG is supported by the BDP, I see no reason why planning permission would not be forthcoming in principle if a revised planning application for redevelopment was submitted, provided that the proposal also complied with relevant policies
- The objector's proposals for redevelopment of MG are being delayed because of the uncertainty caused by the Metro Extension proposals. This delay risks the site coming forward in time for the opening of HS2 and risks BCC's Curzon Masterplan objectives not being fully achieved, to the detriment of the areas potential
- The requirement for catenary to be affixed to future buildings within the objector's land creates uncertainty in terms of preparing plans for redevelopment and would potentially cause issues with visual impact, contrary to BCC's aspirations for the Curzon Masterplan area
- The permanent acquisition of land for the Metro Extension by the promoter could result in a sub-optimal redevelopment of the MG site. . The land proposed to be acquired permanently, but which is not required for the operational tramway, could and should form part of a comprehensive redevelopment scheme that is

capable of delivering BCC's planning policy objectives for regeneration alongside the delivery of HS2. The most realistic developer of this land given its adjoining landholdings is the objector. If the WMCA was to acquire this land, it will cause further delay in bringing the site forward and also risks the site not securing BCC's policy aspirations as there is no certainty that this land can be acquired by the objector subsequently, and more importantly be delivered.

- . The temporary acquisition of land not required for the operational tramway – rather than its compulsory acquisition - would provide the certainty that this land could be acquired by the objector and included, with confidence, in a planning application to ensure a satisfactory form of development which is fully aligned to planning policy objectives, with the prospect of earlier delivery of redevelopment than if acquired by the WMCA.

Appendix 1: Planning permission for Martineau Galleries

Bound separately

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