

OBJ/10/P1.1

Summary of Evidence of David G van der Lande

Appearing in respect of
intu Merry Hill

Midland Metro (Wednesbury to Brierley Hill Land Acquisition) Order

19 February 2019

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1 INTRODUCTION

1.1 My name is David van der Lande I hold a Bachelor of Science Degree with Honours, in Estate Management from Southbank University, London.

1.2 I have been a Member of the Royal Institution of Chartered Surveyors since 1997 and am a Registered Valuer with the Royal Institution of Chartered Surveyors.

1.3 I am a Director of Icen Projects and have advised acquiring authorities, developers and claimants on compulsory purchase matters for over 20 years.

1.4 I understand my duty as an Expert Witness to the Inspector.

2 THE MATTER

1.5 This Summary to my proof of evidence has been prepared in relation to the Statement of Case submitted on 11 December 2018 and Objection of 29 January 2018 from

- Intu Properties Plc;
- MH (No.1) Nominee A Limited;
- MH (No.1) Nominee B Limited;
- MH (No.4) Nominee B Limited;
- MH (No.6) Nominee B Limited; and
- MH (No.7) Nominee B Limited

1.6 collectively "intu", who own and operate intu Merry Hill Shopping Centre ("**MHSC**") as well as other buildings and land adjacent to it.

1.7 Intu want to ensure the impact of the Scheme is mitigated on their retained land interests, while accepting that some land is required for the Scheme.

3 INSTRUCTIONS

- 1.8 I was instructed by intu to object to the Order as follows:
- 1.9 intu does not object to the principle of a Light Rapid Transit System or Tram system, that can serve communities around Brierley Hill and Wednesbury (the Scheme).
- 1.10 From the information available and discussions with Midland Metro Alliance (**MMA**), acting on behalf of the West Midlands Combined Authority (**WMCA**), The Scheme will affect vehicle and pedestrian movements to and from MHSC.
- 1.11 Intu have concern that the economic impacts of the Scheme on MHSC have not been fully assessed, consequently, the mitigation measures not properly evaluated or compensation allowed for in the project.
- 1.12 Among other issues insufficient information has been provided to allow a proper assessment of the impact of the proposed Scheme.

4 EXTENT OF LAND REQUIRED

- 1.13 There is no clear justification for the extent of the proposed land take between Central Way and The Embankment, or the purpose to which it will be put. As a consequence, the impact on pedestrian and car borne shoppers cannot be adequately determined.
- 1.14 It is therefore requested that should the order be confirmed that the extent of land taken is adjusted to reflect the extent of land required.

5 CONSULTATION

- 1.15 Whilst there has been continued dialogue with intu on the proposed Scheme proposed alterations to the road system to mitigate the effect of the proposed Scheme on Merry Hill have yet to be set out in sufficient detail to determine the effect on the road network, preventing a proper assessment of impact or to allow an assessment of any mitigation measures, despite continued requests for sufficient detail by ITP, Transport Consultants acting for intu.

6 INSUFFICIENT INFORMATION

1.16 Insufficient information has been provided to intu by MMA in respect of the following:

- Impact to the highways network
- Environmental Impact
- Mitigation Measures
- Funding
- Scheme Design

7 ENVIRONMENTAL IMPACT

1.17 WMCA have provided insufficient information in respect of the impact of the scheme on the highways network and environment as it currently presents, including the operation of the shopping centre. DAC Beachcroft LLP, who also act for intu, wrote to Winckworth Sherwood (the legal representatives of WMCA) on 4 January 2018 (OBJ/10/P1.2.1) requesting clarification as to why no Environmental Impact Assessment (EIA) was submitted with the application for the scheme.

1.18 The EIA documentation is over 12 years old and the EIA submitted in relation to the 2005 Order was not carried out against the current baseline.

1.19 There is no appropriate means to understand the impact on the Scheme to enable intu and other affected landowners to assess and comment on the proposed mitigation measures and their adequacy. Nor does it enable intu to put in place adequate measures to mitigate the impact of the construction or subsequent operation of the proposed scheme.

1.20 Accordingly, I believe a new EIA should be prepared as part of the application process for the (pursuant to Transport and Works (Applications and Objections Procedure)(England and Wales) Rules 2006/1466) or that a request be made to the applicant under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 section 9, 3 (so that the scheme complies with Directive 2014/52/EU) and that consent to the scheme should not be granted until the EIA is made available with adequate time for all affected landowners to review, consider and comment on that documentation.

- 1.21 It is noted that Dudley MBC confirmed implementation of the planning application with the formation of part of the foundation substructure for the proposed tram stop in the car park at Birmingham Street and Porterfield in a letter dated 4 September 2009 (WBHE/B10), prior to expiry of the planning application on 22 March 2010.

8 MITIGATION MEASURES

- 1.22 Retail trading is critically reliant on key trading periods of Christmas and Easter. These peak trading flows determine the ability of retailers to ensure viable businesses, maintain units, employ staff and pay for their premises.
- 1.23 The ability of retailers to sustain trading is significantly reliant on the ease with which shoppers can access MHSC. Increased travel time from Scheme construction adversely affecting journey times will affect trading and the value of the centre.
- 1.24 The consideration of averaged traffic flows by WCMA on roads and junctions, rather than traffic flows at key, peak trading periods, does not reflect the likely impact of the scheme on MHSC trading and MHSC value.
- 1.25 Altered routing of traffic is likely to generate changes to parking locations that will in turn alter pedestrian flows into and within the Merry Hill centre. No consideration can or has been given to the costs required to reconfigure the internal layout of the centre or car parks for pedestrians or vehicle users.
- 1.26 The disruption during the construction phase of the development and subsequently, cannot be assessed without effective data.

9 FUNDING

- 1.27 intu are concerned that funding may not be sufficiently available, since the Scheme had previously assumed a contribution of £36.5 million from the owner of Merry Hill.
- 1.28 The Business Case, sets Scheme costs at £343.6 million, and confirms that £33.2 million currently has no private entity or public commitment of funding.

- 1.29 Following DfT guidance regarding Optimism Bias the June 2017 Business Case identifies a DfT compliant budget of £402.7 million to include a 17.2% allowance, in aggregate, for Optimism Bias, split 20% in respect of construction costs and 6% in respect of the tram rolling stock.
- 1.30 An area of costs that appears not to have been allowed for in relation to the acquisition costs are mitigation works and in the context of assume funding shortfall, potentially any compensation for intu Merry Hill.
- 1.31 It is further interesting to note at page E-35 of the Economic Case that the broad transport budget is noted as £443.4 million as opposed to £343.6 noted elsewhere.
- 1.32 The MIP 2018 report (OBJ/10/P1.2.3) notes on page 22 that a full review of programme and costs is underway.
- 1.33 I contend it is not in the public interest for a Scheme to progress, where there is an identified shortfall in funding of in excess of 9.6% and potentially in excess of 27% and there is no effective plan as to how any shortfall will be met.

10 SCHEME BENEFITS

- 1.34 The June 2017 Business Case sets of the economic benefits of the proposed scheme being predominantly derived from travel time savings.
- 1.35 The base data is generated from assumed traffic flows and information assessed from the application made in 2003 which determine the benefits that inform the Economic and Business Cases is not reflective of current movements.
- 1.36 Without use of current information the assumed benefits are not capable of being determined or demonstrated.

11 SCHEME DESIGN

- 1.37 Insufficient detail has been provided to demonstrate routes for passengers from the significantly elevated position of any tram stop which might help inform discussion.

12 SUMMARY OF OBJECTION

- 1.38 into objects are:
- 1.39 There has been a lack of negotiation by WMCA in respect of the acquisition of land and no offer made;
- 1.40 There is a lack of appropriate baseline environmental data from which to assess the environmental impact and potential mitigation measures of the scheme;
- 1.41 A lack of information has been provided in respect of the impacts that the proposed scheme and works will have on the highways network;
- 1.42 There is a lack of mitigation measures to offset the impact on the centre with regard to disrupted retailing and leisure operations at Merry Hill;
- 1.43 There is a lack of an effective budget or capacity to meet shortfalls; and
- 1.44 There is a lack of detail in respect of the proposed scheme itself.
- 1.45 In summary there is no compelling case in the public interest to take land for the proposed scheme with such little information.