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14 March 2019

Dear Sirs

**TRANSPORT AND WORKS ACT 1992
PROPOSED MIDLAND METRO (WEDNESBURY TO BRIERLY HILL LAND ACQUISITION) ORDER**

I refer to your letter of 27 February 2019 which responds to the further written representation I submitted on behalf of Jessops.

In your letter you confirm that it is impossible to guarantee that my client will not experience business interference, and therefore incur losses, as a direct result of the works proposed by your client. The Order is required to enable these works to be undertaken. I note that you also confirm that my client will not be entitled to compensation for any such losses incurred as a result of this business interruption. This is because compensation is limited to section 10 of the Compulsory Purchase Act 1965.

It is widely acknowledged amongst CPO practitioners that section 10 is inadequate and does not provide compensation for losses which have indisputably occurred as a direct result of the interference with private rights by the implementation of compulsory powers.

There are other circumstances where the compensation code does not provide adequate compensation to parties affected by the implementation of compulsory powers and it is for this reason that a number of acquiring authorities, particularly those promoting large infrastructure schemes, adopt discretionary schemes to provide fair compensation and alleviate hardship.

The fact that the Draft Order has extended the compensation provisions beyond the statutory compensation code in respect of some categories of affected parties demonstrates this point.

You refer to the 2005 Order. This is not relevant to my client's objection to the Draft Order. The land acquisition powers within the 2005 Order have expired, hence the need for the Draft Order. My client's lease commenced in 2016 which was after the land acquisition powers in 2005 Order had expired. My client's concerns arise from the Draft Order which is currently being promoted. It is the Draft Order which, if confirmed, will cause hardship to my client.

You state that there is no evidence that my client will suffer loss or damage, however, there is no evidence that they will not as you acknowledge in your letter. The position, as confirmed in your letter, is that they might suffer loss or they might not. At this stage we simply do not know. For the avoidance of doubt, my client is only seeking the right to claim compensation in circumstances where they experience loss as a direct result of the implementation of the powers sought under the Order.

My client would not be seeking compensation if they did not suffer loss. They merely want to be able to receive compensation in the event that they do suffer loss as a direct result of the implementation of the powers, which you confirm could arise. This is not an unreasonable position to adopt.

I therefore, disagree with your conclusions. It is plainly unfair that my client is put at risk of business losses as a result of the implementation of the Draft Order without recourse to fair compensation from the party causing the loss.

My client's offer to withdraw their objection in exchange for an undertaking in the form set out in previous correspondence - most recently my email to your colleague Kalvinder Aratoon of 18 February 2019 (to which no response was received) - remains.

However, in the absence of such an undertaking my client's objection will be maintained.

I have copied this letter to the programme officer so that it can be considered by the Inspector at the forthcoming inquiry.

Yours faithfully



Matthew Bodley
For and on behalf of Matthew Bodley Consulting Ltd

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cc Melanie Owen-Roberts