

TRANSPORT AND WORKS ACT 1992:
PROPOSED MIDLAND METRO (WEDNESBURY TO BRIERLEY HILL LAND ACQUISITION) ORDER
TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004
PRE-INQUIRY NOTE

1 Introduction

- 1.1 **John Felgate**, a Chartered Town Planner, 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 (TWAO) 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 remaining objections to the proposed TWAO, pursuant to, or in connection with, the Midland Metro (Wednesbury to Brierley Hill Land Acquisition) Order.
- 2.2 24 letters of objection and 4 letters of support were received in respect of the TWAO. 13 of the objections have since been withdrawn.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 Inspector's 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 11 December 2018.

4.2 SOC's have been received from the following 4 objectors:

- i. OBJ/6 - LCP Estates Ltd, dated 10 December 2018 (incorporating letter dated 26 January 2018)
- ii. OBJ/7 - Jessops Europe Ltd, dated 11 December 2018
- iii. OBJ/10 - Intu Properties PLC and others, dated 11 December 2018
- iv. OBJ/13 - National Grid Electricity Transmission PLC, dated 11 December 2018

4.3 Any other persons who have already submitted a formal written objection or supporting representation, but not a Statement of Case, may also be permitted to appear (speak) at the inquiry, but this will be at the discretion of the Inspector. Any such person is advised to contact the Programme Officer as soon as possible.

4.4 Any person wishing to appear, who has not already submitted a formal objection or supporting representation, within the required period, will only be permitted to do so in exceptional circumstances.

4.5 Parties appearing at the Inquiry may do so in person, or may be represented by counsel or another advocate. They may also call one or more expert witnesses.

4.6 In considering the proposed TWAO and associated matters, the Inspector will also take account of all the written objections and supporting representations, as well as the evidence heard at the Inquiry.

4.7 People who do not wish to speak at the Inquiry may attend as observers.

5 Inquiry venue

5.1 The Inquiry will be held at the Village Hotel, Castlegate Drive, Birmingham Road, Dudley DY1 4TB.

- 5.2 The venue is accessible for people with disabilities. In addition to the main Inquiry room, rooms will be reserved for use by the Inspector, the Programme Officer, the Inquiry Library, and WMCA. Any requests for other specific facilities should be referred to the Programme Officer.

6 Inquiry dates and times

- 6.1 The Inquiry is proposed to open at 10.00 am on Tuesday 19 March 2019. It is provisionally estimated that the Inquiry will sit for up to 10 days, spread over 2 weeks. However, the length of the inquiry is not yet fixed. A draft programme will be prepared and circulated as soon as possible.
- 6.2 The Inquiry will generally sit at the following times: 09.30 (but 10.00 on the opening day) to about 17.30; with one hour breaks for lunch at around 13.00 hours, and short breaks at convenient points mid-morning and mid-afternoon.

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 (SOM). 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 SOM, 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.
- 7.3 The Promoter should ensure that it responds explicitly to every objection, including those made in writing only.
- 7.4 The Inspector requests the Promoter to engage positively with each of the remaining objectors, with a view to reaching agreement on as many issues as possible. This could take the form of Statements of Common Ground. The Inspector welcomes written confirmation of any areas where such agreement has been reached, in the interests of saving inquiry time for all participants.
- 7.5 If, as a result of this process, any party wishes to withdraw their objection, this may be done at any time. There is no penalty for withdrawal.

8 Inquiry procedure

- 8.1 The Inspector will generally follow the procedure set out in the Transport & Works (Inquiries Procedure) Rules 2004. However, the Inspector has the power to vary any aspect of this procedure, in the interests of expediency.
- 8.2 An outline of the proposed basic procedure is as follows:
- i. The Inspector will invite WMCA, as Promoter, to make an opening statement, outlining its overall case for the proposed TWAO.
 - ii. The Promoter will call its witnesses in turn to give their evidence on the scheme as a whole (but not detailed evidence relating to specific objection sites at this stage). Cross examination by objectors may be permitted, but will likewise be limited at this stage to 'general' matters, relating to the scheme as a whole rather than individual land parcels. Re-examination may be permitted at the Inspector's discretion.
 - iii. Each objector would then present its case in accordance with the detailed programme to be prepared. The objector will be able to make an opening statement, and then call any witnesses in turn. These witnesses may be cross-examined by WMCA's advocate and re-examined as above. The Promoter will call (or recall) those of its witnesses who have provided specific rebuttal evidence in respect of that particular objection, and these witnesses will likewise be open for cross-examination and re-examination. The objector will then be permitted to make any closing submissions relating to their objection.
 - iv. The Inspector may put questions to any of the witnesses at any stage.
 - v. The promoter will be invited to present any further evidence that it wishes, in relation to any or all of the written objections, either in writing or through oral evidence.
 - vi. WMCA will be allowed to make an overall closing statement. The Inspector will then formally close the inquiry.

- 8.3 The Programme Officer will proceed to draw up a draft programme for the order of appearances. She will do her best to accommodate any problems regarding the availability of objectors' witnesses or advocates, but a choice of slots cannot be guaranteed. Any such issues should be notified to her as soon as possible.

9 Site visits

- 9.1 The Inspector will familiarise himself with the Order lands and objection sites and the surrounding area, prior to the Inquiry, on an unaccompanied basis. These unaccompanied visits will be limited to views from public land. He may make further visits during or after the Inquiry, including accompanied visits onto private land, if this seems to him to be necessary, taking account of any specific requests that may be made. Arrangements for any such visits will be made and announced at the Inquiry.
- 9.2 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 will announce during the Inquiry the date and time at which he proposes to make such a visit.
- 9.3 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.

10 Inquiry Documents

- 10.1 A list of inquiry documents is included in WMCA's Statement of Case, and will be updated on the Inquiry website. Hard copies of all documents will be available at the Inquiry Library when the inquiry is in session.
- 10.2 It will save paper, time and expense if others wishing to refer to these 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.

11. Proofs of evidence

11.1 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 may be read at the Inquiry, but the full proofs will count as evidence and be open to cross-examination.

11.2 If reference is to be made to any other document, which is not included in the list of Inquiry 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.

11.3 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, together with the date 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.

12 Submission of evidence

12.1 The deadline for the submission of proofs of evidence is 17.00 on 19 February 2019. The deadline for the submission of any rebuttals, if considered necessary, will be 2 weeks prior to the commencement of the Inquiry (17.00 on 5 March 2019), unless otherwise agreed. 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.

13 Copies

- 13.1 The Inspector will require a paper copy of every proof, rebuttal, appendices and summary and other documents submitted, and one 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.
- 13.2 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.
- 13.3 The parties can negotiate directly if they seek additional copies of each other's evidence.

14. Opening and closing submissions

- 14.1 The Procedure Rules require those making closing submissions to provide the Inspector with copies of these in writing before the close of the Inquiry. 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.

15. Presentation of Evidence

- 15.1 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 to assist the Programme Officer in preparing the draft Inquiry programme.

16. Document numbering and availability

- 16.1 As indicated above, every document should be numbered. Please see the Note on Document Referencing in the Appendix. This is intended as a guide for all parties when referencing their proofs and rebuttals. Numbers should be prefixed with an abbreviation to indicate the party (the Objector number, and not the witness) on whose behalf it is

submitted, followed by a sequential number. The Programme Officer will advise in the event of any query.

- 16.2 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. Redacted letters of objection and support are available to view on the website.

17. Inquiry Programme

- 17.1 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.
- 17.2 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.

J Felgate

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 TWAO Support Officer, Metro Team, WMCA, 16 Summer Lane, Birmingham B19 3SD, telephone 0121 643 8729 or email communications@metroalliance.co.uk

Location to view documents

Sandwell Council

Freeth Street, PO Box 2734, Oldbury, B69 3DE

Monday, Tuesday, Thursday 0845-1715

Wednesday 0900-1915

Friday 0845-1645

Saturday, Sunday - closed

Great Bridge Library

Sheepwash Lane, Tipton, DY4 7JF

Monday, Wednesday, Friday 0930-1700

Tuesday, Sunday - closed

Saturday 1000-1300

Dudley Council Offices

Council House, Priory Road, Dudley, DY1 1HF

Monday-Friday 0845-1700

Saturday, Sunday - closed

Brierley Hill Library

122 High Street, Brierley Hill, DY5 3ET

Monday 0930-1900

Tuesday-Friday 0900-1900

Saturday 0900-1700

Sunday 1000-1400

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

Note on Document Referencing

This note is intended as a guide for all parties when referencing their proofs and rebuttals.

SECTION 1 - DOCUMENTS SUBMITTED BY APPLICANT		
Deposit (or Core) Documents	WBHE/A-F	<i>Any additional core documents submitted will be added with a note or sub-heading to indicate added post-application</i>
Proofs of Evidence	APP / P + sequential number	APP/P1 APP/P2 APP/P3.1 APP/P3.2
Rebuttals	APP / R + sequential number	APP/R1.1 APP/R1.2 APP/R2 APP/R3 etc
Documents submitted during Inquiry	APP / INQ + sequential number	APP/INQ1 APP/INQ2 APP/INQ3.1 APP/INQ3.2 etc
SECTION 2 - DOCUMENTS SUBMITTED BY OTHER PARTIES		
PROOFS OF EVIDENCE	OBJ_/P + sequential number	OBJ 15/P1.1 Proof from objector 15 OBJ 15/P1.2 Appendices to proof from objector 15 OBJ 20/P1 Proof from objector 20 OBJ 21/P1 Proof from objector 21
WRITTEN STATEMENTS	OBJ_/W + Sequential number	OBJ 13/W1 Written statement by objector 13
DOCUMENTS SUBMITTED AT INQUIRY	OBJ_/INQ + sequential number	OBJ 15/INQ1 Response to Inspector's question at Inquiry from objector 15 OBJ 15/INQ2 Explanatory note from objector 15 OBJ 16/INQ1 Plan from objector 16
SECTION 3 - GENERAL INQUIRY DOCUMENTS (INCL THOSE SUBMITTED BY INSPECTOR / PO)		
GENERAL INQUIRY DOCUMENTS	GEN + sequential number	GEN 1 GEN 2
NOTES		
<ul style="list-style-type: none"> For multiple "parts" to a specific document (eg a proof with appendices and plans) use /1.1, 1.2, 1.3 Documents from supporters should follow same pattern as objectors but with prefix SUPP/_ 		