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Date 10 December 2018
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Dear Madam

**Transport and Works Act 1992 (TWA):
Application for the proposed (Midland Metro Wednesbury to Brierley Hill Land Acquisition)
Order**

Pursuant to Rule 7(3) of the Inquiry's Rules, which requires service of a Statement of Case, L.C.P. confirm that they wish their objection letter of 26 January 2018 to be treated as its Statement of Case. A copy of that objection letter is enclosed.

We confirm that this letter is also being sent to the applicant care of Winckworth Sherwood, Solicitors and Parliamentary agents.

Yours faithfully



Matthew Scudamore
Legal Director
for Gateley Plc

Encs.



Secretary of State for Transport
c/o Transport and Works Act Orders unit
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Special Delivery and email

Dear Sir

Transport and Works Act 1992 – The Midland Metro (Wednesbury to Brierley Hill Land Acquisition) Order ('the draft Order')

We act for L.C.P. Estates Limited ("L.C.P.") who hereby object to the draft Order insofar as it affects their interests in land at and adjacent to the Churchill Shopping Centre in Dudley town centre.

L.C.P. is a statutory objector pursuant to section 11(4) of the Transport and Works Act 1992.

L.C.P.'s interest in land

L.C.P. is the freehold owner and operator of the Churchill Shopping Centre in Dudley ("the Shopping Centre"). The Shopping Centre is a 190,076 sq. ft. development which is located in the heart of Dudley town centre, fronting onto Market Place, and home to many well-known and well established UK wide retailers.

The Shopping Centre is well used by the local population and is adjacent to the main town centre bus station and many of the town centre car parks. It is also within easy distance of Dudley's well known tourist attractions – for example, Dudley Zoo and Castle and the Black Country Living Museum.

The Shopping Centre has a monthly footfall of 212,766 (December 2017). It forms an integral part of Dudley's town centre shopping offer and provides a link from King Street and Flood Street through to Market Place. Its success is integral to the success of the town centre.

L.C.P.'s objection to the draft Order

In principle, L.C.P. supports the purpose of the draft Order as it recognises the benefits the Metro system will bring to the town centre and to the wider West Midlands.



However, it needs to register its objection to the draft Order due to the lack of clarity provided in the draft Order documentation as to the nature and effect of the proposed Metro scheme works ('the Works'). Broadly, L.C.P.'s objection falls into two main areas of concern:

- (i) the effect of the Works on the operation of the Shopping Centre; and
- (ii) the effect of the Works on access to and from the Shopping Centre.

By reference to the draft Order plan, the book of reference and the draft Order itself, L.C.P. is aware that the following plots in which it has interests are included in the draft Order:

Plots 174, 175, 179, 180, 182, 183 and 184.

Of these, plots 179, 180, 183 and 184 are subject to acquisition of land (Schedule 1 Part 1 of the draft Order), and plots 174, 175 and 182 are plots in respect of which temporary possession may be taken (Schedule 3).

The effect of the Works on the operation of the Shopping Centre

Plot 184:

The draft Order states that this plot is being acquired permanently for the construction, operation and maintenance of the authorised works. The plot itself provides access to the service yard servicing the Shopping Centre. This service yard is used not only by the Shopping Centre and the units within in it, but also by other retail units fronting onto Market Place, many of which are occupied by well-known UK wide national retailers. It provides the sole delivery point for the Shopping Centre and those other units. The service yard operates on a 24/7 basis, 365 days a year. In addition, it provides access to a first storey car park of 86 spaces which provides permitted parking for staff and other persons employed in the town centre. The income for each space is £150 per annum, giving an annual income of £12,900.

Access to the service yard needs to be maintained and available to large delivery vehicles 24 hours a day, 365 days a year. This requirement will have to continue without interruption or impediment while the Works are carried out. The draft Order as sent to L.C.P. provides no detail as to how this will be achieved. In the event there is some form of traffic regulation and new traffic flow system, which we assume there will be, L.C.P. will need to be consulted on that in advance – including in relation to details of any proposed temporary diversions – to ensure that access to and from the service yard operates effectively during the Works and once the Metro system is complete and operational.

If the Works have an adverse effect on the access to the service yard then it will prevent or severely impair the operation of the Shopping Centre. This will affect not only the units in the Shopping Centre but also those other units that front onto Market Place, the persons who pay to use the first storey car park and the associated income from that car park. Any Order that seeks the acquisition of permanent rights has to demonstrate that there is a compelling case in the public interest to do so. In the absence of being able to demonstrate that there will be no adverse impact on the access to the service yard, L.C.P. does not consider that the draft Order demonstrates a compelling case for acquisition of the access as any interference with it would have severe and adverse consequences for the operation of the Shopping Centre and the other retail units that depend on it. As a result, the shopping offer in the town centre would be harmed to such an extent that it would outweigh the benefits that the draft Order is attempting to bring to Dudley.

Please also see our comments below about L.C.P.'s own development proposals for property adjacent to plot 184.

The effect of the Works on access to and from the Shopping Centre

Plot 174:

This plot is being acquired temporarily for the re-modelling of the bus station. L.C.P. has no in principle objection to such re-modelling but is concerned that the Works will affect access from the bus station to and from the Shopping Centre, and the impact of bus routes as buses enter or leave the bus station. L.C.P. needs to see that there is no adverse effect on people's access to the Shopping Centre during the Works and once the Metro system is operational.

In addition, L.C.P. wish to know whether any steps will be taken to encourage traffic along Birdcage Walk. It is likely that footfall will naturally increase along that stretch but L.C.P. needs to understand what Metro Alliance propose in this area.

Plots 175 and 181:

Plot 175 is being acquired temporarily for working site, construction access and working space. Plot 181 is being acquired on a permanent basis for construction, operation and maintenance of the authorised works. L.C.P. does not have a legal interest in Plot 181 but it is adjacent to plot 175 and a parade of shops which are let by L.C.P. to local retailers. The draft Order provides no information as to the effect of the Works on pedestrian access to those shops and in the absence of any clarification we must assume that the Works will result in access to those shops being prohibited. Each of these shops is let to small independent retailers operating primarily on a cash basis. As such they have limited resources to deal with the impact reduced access may cause to passing trade. L.C.P. is therefore concerned about the effect on these tenants and needs reassurance that the Works will not have any adverse impact on access to those premises during the Works and once the Metro system is operational. If there is such an adverse impact, then the Works risk creating empty retail units, thus achieving the opposite effect to the overall purpose of the Metro scheme. (Please also see below our further comments about the availability of hardship packages.)

Plots 179 and 180:

These plots are being acquired on a permanent basis for the construction, operation and maintenance of the authorised works. The draft Order provides no clarity on the effect of the Works on vehicular traffic, including public transport. No information is provided about the location or re-location of bus stops or the alteration of bus routes. Many users of the Shopping Centre rely on the bus network and will continue to do so even if the Metro system is delivered. Similarly, access to car parks in the vicinity should not be adversely affected.

The draft Order documentation also contains a lack of clarity about the proximity of the Works to the pedestrian pavement in these plots and how that affects access to the Shopping Centre. L.C.P. is concerned that pedestrian access from the other side of King Street/Birmingham Road, which includes car parking areas, will be adversely impacted.

Plots 182 and 183:

Plot 182 is being acquired temporarily for the purpose of working site, construction access and working space. Plot 183 is being acquired on a permanent basis for the construction, operation and maintenance of the authorised works.

Plot 182 is situated at the base of the footbridge leading to car parks on the other side of King Street. At the base of the footbridge there is an entrance to the Shopping Centre which is regulated as a walkway under section 35 of the Highway Act 1980. Again, the Order provides no clarity as to the effect of the Works on this entrance point. It needs to be open for pedestrian access during the Works and once the Metro system is operational.

Plot 183 is adjacent and relates to land over which pedestrians walk to access the Shopping Centre. The draft Order provides no clarity on how the Works will affect this land, or the access/egress to the footbridge from the other side of King Street.

Other points of objection

Timetable: with regard to each of the above plots, and the draft Order generally, L.C.P. currently has little information about the proposed timetable for delivery of the Works. L.C.P. must be consulted in advance so that it can ensure in good time that the impact on the Shopping Centre will not be detrimental and the Works are no longer in duration than is necessary. L.C.P. is willing to liaise with Metro Alliance to ensure an appropriate timetable, but this will need to happen well in advance of the commencement of the Works so that L.C.P. is able to properly consult and inform retailers within the Shopping Centre of any potential impact on them. It would be helpful to know whether Metro Alliance proposes to provide a liaison officer and run workshops or provide newsletters to retailers, rather than L.C.P. having to consult the retailers themselves.

Location of stops: we are aware that Metro stops are proposed close to the bus station and on Flood Street. L.C.P. needs to understand the following:

- What is the effect on the Trindle Road car park area, which is currently used by shoppers visiting the Shopping Centre. What alternative parking is proposed if that car park is removed to accommodate the Metro system stop, and how will access from the stop direct pedestrian traffic towards the shopping centre?
- How will existing bus stops on the other side of Birmingham Road be affected?
- Given that the Metro route proceeds along and has a proposed stop on Flood Street, what will the effect of that be on access to the car parking areas adjacent to Flood Street?
- Linking back to the concerns expressed earlier about access to the service yard, to which Flood Street is one of the main approaches, what will the effect be on the highway and traffic movements along Flood Street?

L.C.P. would also like to know whether the proposed stops will feature information and signage about the proximity and direction of the Shopping Centre. It seems sensible to provide this given that the Shopping Centre will be the main local feature in the vicinity of these stops. It would also be sensible for the Metro PA system to announce that that the stops provide access to the Shopping Centre if people alight there.

Hardship package: as explained in relation to plot 181, the impact on retail units is potentially severe if the Works affect access to those units. As mentioned, the occupiers of these units are unlikely to withstand any short-term losses in trading. To mitigate that, please confirm the availability of any hardship package to assist these occupiers or, in the alternative, the possibility of a business rates holiday period for the duration of the Works.

Overhead line equipment (OLE): while L.C.P. note the exclusion of any overhangs from certain of the above plots, it needs confirmation whether any OLE is required to L.C.P. property. If so, please provide full details, including information as to the maintenance of such equipment (e.g. servicing, cleaning etc.), and whether there is likely to be further such development over time. In the event that OLE is to be attached to L.C.P. property it will be necessary for the associated rights to provide for L.C.P. to redevelop their property, in which case it would be common practice for the OLE to be placed on a post for a temporary period.

Landscaping: L.C.P. are not aware of any landscaping proposals associated with the Metro scheme. It will be important to deliver an enhanced environment in the vicinity of the Metro and L.C.P. understandably need to be consulted on the landscaping proposals on the stretch of the Metro that runs alongside the Shopping Centre.

Development by L.C.P: it is currently L.C.P.'s intention to develop a vacant unit between plots 182 and 184 for residential purposes (details can be provided on request). The inevitable concern is that the Works could result in deferred development costs. Again, L.C.P. needs to understand the

proposed timetable for and nature of works to plots 182 and 184 in order to assess the potential effect of the Works.

Disturbance: L.C.P. are concerned that physical factors arising from the development, namely noise; vibration; smell; fumes; smoke; artificial lighting; and potential discharge onto its land, will occur during or as a result of the Works and will have an adverse effect on traders at the shopping centre and visitors to it. Can Metro Alliance provide details as to how such physical factors will be mitigated or prevented?

Extent of land subject to compulsory purchase powers: L.C.P. is concerned that the extent of land included in the draft Order exceeds what is necessary to achieve the Order's purposes. Once the nature and extent of the Works becomes clearer, L.C.P. reserves the right to request modifications of the draft Order to remove any parts of its land that do not need to be included.

Summary of objection

As indicated, L.C.P. supports the principle of the Metro scheme. However, given the potential effect on the operation of the Shopping Centre and access to it, the lack of clarity surrounding that and the concern that the extent of land in the draft Order exceeds what is necessary, L.C.P. needs to register its formal objection to the draft Order. L.C.P. reserves the right to recover the costs of objecting to the draft Order.

Please note that L.C.P. is willing to work with Metro Alliance from this point on with a view to agreeing the nature of the Works, thus ensuring there is no adverse effect on the Shopping Centre. Please note that in so doing L.C.P. reserves its rights to any compensation payable in accordance with the compensation code.

L.C.P. reserves the right to amend or add to this objection as and when further details of the works are provided. It may also be necessary for L.C.P. to add to this objection once it has obtained the views of its lenders and insurers in respect of the Works.

We would be grateful if you could acknowledge receipt of this objection, and look forward to your substantive response.

Yours faithfully

Gateley Plc

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