

Wednesbury to Brierley Hill Extension

**Evidence Given on Behalf of the Applicant: WMCA
Scheme Overview
Main Proof of Evidence
Peter Adams**



Transport and Works Act 1992

The Transport and Works

(Inquiries Procedure) Rules 2004

1 Introduction

Qualifications and Experience

- 1.2 My name is Peter David Adams. I am an independent transport consultant and, until 30 September 2018, was Head of Metro Development for West Midlands Combined Authority (WMCA).
- 1.3 I am a Chartered Engineer, being a Member of the Institution of Civil Engineers and of the Chartered Institution of Highways and Transportation. I obtained a BSc (Hons) in Civil Engineering (1st Class) from the University of Birmingham and since graduating in 1980 have worked for Leicestershire County Council, Ove Arup and Partners and the Highways Agency before joining Centro in 2002.
- 1.4 I managed the development and implementation of Midland Metro extensions from 2004 to 2018. I was responsible for the delivery of business cases securing funding from the Department for Transport in 2012 for the recently completed Birmingham City Centre Extension (BCCE) and Fleet Replacement Programme, and for the subsequent tender process and award of contracts for infrastructure and new trams. I have been responsible for the bidding and Transport and Works Act Order (TWAO) submission processes for the Centenary Square, Edgbaston, Wolverhampton City Centre and Birmingham Eastside extensions. I was also responsible for the bidding processes securing funding for the above projects.
- 1.5 Prior to 30 September 2018 I led WMCA's Metro Development Team in the development of a programme of Midland Metro extension projects in Birmingham and the Black Country, including the Wednesbury to Brierley Hill Extension (WBHE), and oversaw the processes leading up to the submission of the Draft Order and negotiations with objectors.
- 1.6 I was also a member of the Management Team of the Midland Metro Alliance, and in the role of Development Director shared the strategic leadership of the Alliance.

Scope of Evidence

- 1.7 My evidence covers the strategic context of the project, the existing Midland Metro tram network, existing transport facilities and development potential within the project corridor, the evolution and development of the project, a description of the proposals, the benefits of the project, how it will be funded and delivered, the strategic support for the project, the strategic, financial, commercial and management case elements of the business case and WMCA's response to objectors to the Order.

1.8 I deal in my evidence with the following matters in the Statement of Matters issued by the Secretary of State for Transport, being the matters about which the Secretary of State particularly wishes to be informed for the purposes of his consideration of this application [GEN 3]:-

- 1 – Justification for the Proposed Order,
- 2 – Alternatives to compulsory acquisition considered by WMCA,
- 3 – The anticipated benefits of the scheme, having regard to the criteria for justifying powers in paragraphs 12 to 15 of the Ministry of Housing, Communities and Local Government Guidance, as amended.
- 5a – The Case for use of Compulsory Powers,
- 5c – Availability of Funding, and
- 6 – Changes to the Proposed Order since the application was made and whether anyone whose interests are likely to be affected by such changes has been notified.

1.9 I also deal with the Commercial, Management and Financial Cases of the project Business Case.

Witness Declaration

1.10 The evidence I shall give is true, given in good faith and represents my professional opinion regarding the merits of the Order proposal and I have carried out my assessment in accordance with the Code of Professional Conduct of the Institution of Civil Engineers.

2 Strategic Context

2.1 The WBHE is entirely in line with National, Regional and Local Policies. My colleague Mr Paul Ellingham sets out in his Proof of Evidence [APP/P5.1] a fully detailed review of how the scheme fits with planning and economic policy. However, the WBHE is compliant with the policies of the following:-

- The National Planning Policy Framework [WBHE/E8]
- The West Midlands Local Transport Plan 2011-2026 (LTP3) [WBHE/E15]
- Towards a World Class Integrated Transport Network (2013) [WBHE/E5]
- Movement for Growth: The West Midlands Strategic Transport Plan (2016) [WBHE/E10]
- The Black Country Core Strategy and Review [WBHE/E23-26]

2.2 Support for the WBHE is found in particular in Policy TRAN1 (Priorities for the Development of the Transport Network) of the Black Country Core Strategy [WBHE/E23], which states that the development of transport networks in the Black Country is focused on a step change in public transport provision serving and linking centres, improving sustainable transport facilities and services across the area and improving connectivity to national networks. It identifies key transport priorities, one of which is providing rapid transit extensions to the Midland Metro to connect the Black Country Strategic Centres to each other and to Birmingham and it notes the first priority being within the Walsall to Stourbridge corridor, providing high quality access to Merry Hill and Brierley Hill. This is identified in the Black Country Core Strategy [WBHE/E23] Transport Key Diagram on page 116 of the Strategy.

2.3 In September 2017, the WMCA approved Transport for West Midlands (TfWM)'s Movement for Growth: 2026 Delivery Plan for Transport [WBHE/E22]. This includes at section 9.1 a commitment to delivery of the WBHE by 2023.

2.4 The WBHE is strongly supported by National and Local transport policies, as I set out in the following section of this Proof of Evidence.

European and National Transport Policy

2.5 The European Commission's White Paper "Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system" [WBHE/E3] supports the development of local collective transport projects such as the WBHE, noting at paragraph 30 that "*Urban transport is responsible for about a quarter of CO2 emissions from transport, and 69% of road accidents occur in cities. The gradual*

phasing out of 'conventionally-fuelled' vehicles from the urban environment is a major contribution to significant reduction of oil dependence, greenhouse gas emissions and local air and noise pollution" and at paragraph 31 that "A higher share of travel by collective transport, combined with minimum service obligations, will allow increasing the density and frequency of service, thereby generating a virtuous circle for public transport modes."

- 2.6 In its White Paper "Creating Growth, Cutting Carbon Making Sustainable Local Transport Happen" [WBHE/E11] the Government supports light rail projects such as the WBHE, stating at paragraph 6.35 that "*Light rail, trams and other rapid transit systems can play a significant part in improving the attractiveness and quality of public transport in major conurbations. Not only is this mode of transport good for passengers but also for local economies and in the right circumstances can be an effective and efficient means of moving a large number of people directly into the heart of a city or town.*"
- 2.7 The National Infrastructure Delivery Plan 2016 -2021¹ (NIDP) is produced by Infrastructure UK, a government organisation and part of HM Treasury with specific focus on infrastructure planning, financing and delivery. It sets out an ambitious infrastructure vision for the future and focuses on specific UK infrastructure including; Roads, Rail, Aviation, Ports, Energy, Communications, Water, Waste and Science and Research. It also sets out how infrastructure will be financed and delivered, with the overall aim to assist in long-term economic growth of the UK.
- 2.8 As described on page 9 of the NIDP, the plan updates and replaces the previous version "outlining details of £483 billion of investment in over 600 infrastructure projects and programmes in all sectors and spread across the UK".
- 2.9 This NIDP is mainly focused on national infrastructure developments such as HS2, Crossrail and major road schemes. Its influence on regional, sub-regional and local policy is minimal save to the extent that HS2 directly affects future development or the delivery of other localised transport schemes, as is the case with the WBHE and other extensions to West Midlands Metro.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/520086/2904569_nidp_deliveryplan.pdf

- 2.10 Although the NIDP does not specifically relate to the WBHE, it does confirm its support and investment for HS2 and notes, on “Map 13.B: Regional Projects Map” on page 91 (reproduced as my Appendix 1) that “Midland Metro extensions” are planned within the regional investment known as the “Midlands Engine”. The WBHE therefore forms an important element to connect residents in Sandwell and Dudley to Birmingham's HS2 station in Birmingham City Centre, and, in the future, Birmingham International Airport.
- 2.11 it is clear from examining the above policies that the WBHE is in line with and supported by European and UK Government transport policies. This was clearly the view of the Department for Transport in supporting the scheme with over £200 million of Government funding in November 2017, as I set out in section 8 of this Proof of Evidence,.

Local Transport Policy

- 2.12 The WBHE project has enjoyed long-standing local policy support as detailed in the following paragraphs. The Black Country Core Strategy [WBHE/E23] states at Paragraph 5.3 that

“It is vital that new development has access to high quality public transport facilities and services from the outset as this will ensure that people travelling to and from these areas do not establish unsustainable travel patterns due to the initial absence of good public transport.”

West Midlands Local Transport Plan 2011-2026 Making the Connections [WBHE/E1]

- 2.13 The West Midlands Local Transport Plan 3 is a statutory document produced by WMCA's predecessor Centro, providing the long-term transport strategy and associated policies for the West Midlands Metropolitan Area up to 2026. The Implementation Plan [WBHE/E1] “Making the Connections” accompanies LTP3 Strategy and outlines how the Strategy and policies will be delivered.
- 2.14 On page 23 the document notes that the WBHE is one of six “Priorities for Action” to deliver a Rail and Rapid Transit Network “Backbone For Development”.
- 2.15 On page 55 the plan sets out the identified rapid transit schemes for the West Midlands Metropolitan Area up to 2026, including Black Country Rapid Transit Spine Phase One, Wednesbury to Brierley Hill, noting that *“This rapid transit scheme represents a key element of the proposed Black Country Rapid Transit Spine. It would*

link the existing Metro Line One at Wednesbury, to Brierley Hill via Merry Hill. The Black Country Joint Core Strategy recognises the significant economic and regeneration value of the scheme as a key element in the wider growth and regeneration aspirations for the Black Country. Additionally, the extension will directly connect key Black Country centres with central Birmingham allowing people and business to access new markets which will attract new investment along the corridor.”

Towards a World Class Integrated Transport Network [WBHE/E5]

2.16 WMCA's predecessor Centro's "Towards A World Class Integrated Transport Network" set out the long-term vision and strategy framework which will help transform the transport system serving the West Midlands. Table 3.2 on page 44 of the document sets out the preferred mode for corridors suitable for new rail or rapid transit intervention. It lists the Wednesbury to Brierley Hill corridor as "Metro", and the WBHE is identified in Figure 3.2 (Midland Metro and Rapid Transit Lines) on page 53, and in Figure 3.4 (West Midlands Long Term Passenger Rail and Rapid Transit Network) on page 58. It is also a named scheme in the "Access to Growth" table on page 105.

Movement for Growth: West Midlands Strategic Transport Plan [WBHE/E10]

2.17 The West Midlands Combined Authority (WMCA), the regional scale of government, is comprised of seven constituent authorities: Birmingham, Wolverhampton and Coventry City Councils, Dudley and Sandwell Metropolitan Borough Councils, and Walsall Council. In addition, it includes Cannock Chase District Council, Nuneaton and Bedworth, Redditch, Tamworth Borough Councils and Telford & Wrekin Council.

2.18 The WMCA also covers the geographical areas of the Black Country LEP, Coventry and Warwickshire LEP and Greater Birmingham & Solihull LEP.

2.19 The overarching regional policy document in the West Midlands is Movement for Growth: The West Midlands Strategic Transport Plan. This document forms the basis of the future aspirations and requirements set out by the WMCA.

2.20 The strategic transport plan sets out long-term aims to provide guidance for future improvements to the wider transport network in the region over a twenty-year period. The plan identifies at section 2.4 five key challenges in respect of which it states that "...an excellent transport system is an essential part of the solution." These challenges are:-

- Economic Growth and Economic Inclusion;

- Population Growth and Housing Development;
- Environment;
- Public Health; and
- Social Well-Being.

2.21 At section 3.1 the leaders of the WMCA set out the following vision for transport: *“We will make great progress for a Midlands economic ‘Engine for Growth’, clean air, improved health and quality of life for the people of the West Midlands. We will do this by creating a transport system befitting a sustainable, attractive and economically vibrant conurbation in the world’s sixth largest economy”*

2.22 To support the vision, the key aims of Movement for Growth (set out in full in section 3.2) include:

- Improve access to the core centres of the region and to HS2;
- Reduce transport emissions and the general impact on the local environment;
- Improve town centres and the public realm;
- Promote walking, cycling and efficient movement of people on the transport networks; and
- Enhance strategic gateways and further develop transport infrastructure to provide an efficient, resilient and safe transport network.

2.23 In order to secure achievement, the vision is implemented by nine objectives, which are set out in section 3.4 and include:

- ECON1 – Support economic growth and employment
- ECON2 – Support economic wellbeing for people in low incomes
- POP1 – Meet future housing needs
- ENV1 – Improve the quality of the local environment
- ENV2 – Reduce carbon emissions
- PUBH1 – Increase active travel in the region
- PUBH2 – Reduce road traffic casualties
- PUBH3 – Reduce health inequalities in the region
- SOC1 – Improve social well-being of socially excluded people.

2.24 The development of the WBHE is supported within the West Midlands Strategic Transport Plan, where it states at section 3.2 *“Introduce a fully integrated rail and rapid transit network that connects our main centres with quick, frequent services...”*

2.25 Furthermore, the development of the WBHE directly supports the objectives of:

- ECON1 – Support economic growth and employment by enabling a direct, sustainable link between the main economic centres of Birmingham and Wolverhampton;
- ECON2 – Support economic wellbeing for people in low incomes by allowing a cheap and fast transport alternative mode of transport to Dudley, Wolverhampton and Birmingham;
- ENV1 – Improve the quality of the local environment; and
- ENV2 – Reduce carbon emission by providing a sustainable, green mode of transport.

2.26 The WBHE is also clearly shown on Figure 4.3: Metropolitan Rail and Rapid Transit Network Map on page 16.

HS2 - Unlocking the benefits: West Midlands Connectivity Package [WBHE/E19]

2.27 In November 2013, the Government laid a hybrid Bill before Parliament to secure the powers to construct and maintain Phase 1 of High Speed 2, the planned high-speed railway between London, Birmingham, Manchester and Leeds. This Bill received Royal Assent in March 2016, demonstrating the firm commitment of the Government to delivering a high-speed railway between London and the West Midlands, with stations at Birmingham Curzon Street and Birmingham Interchange. In November 2015, the Government released a Command Paper reaffirming its commitment to the full 'Y' network and set out specific plans to accelerate construction of Phase 2A to Crewe on the existing West Coast Main Line, demonstrating its commitment to the entire High Speed 2 network.

2.28 Construction of High Speed 2 therefore represents current active Government policy and will include two stations in the West Midlands at Curzon Street in Birmingham City Centre and at Birmingham Interchange, near Birmingham Airport and the NEC. The 'High Speed 2: Get Ready' report [WBHE/E14], published by the HS2 Growth Taskforce in March 2014, stressed the need to integrate High Speed 2 into local transport networks in order to maximise the benefit to the wider economy, with HS2 stations becoming strategic nodes that connect with inter-city, regional and intra-city transport links. Local authorities and Local Economic Partnerships were challenged to consider how HS2 will be a catalyst for development and growth and to develop detailed connectivity packages in their Local Plans and Strategic Economic Plans respectively.

2.29 In response to the proposals for HS2, TfWM developed a connectivity package to improve regional and local transport links to HS2 in order to maximise economic benefits across the region. The connectivity package contains three strategic outcomes as identified on page 4:

- Capitalising on the network approach;
- Unlocking growth assets; and
- Linking the West Midlands to the HS2 network.

2.30 Improved regional connectivity to High Speed 2 supports all three outcomes. The package identifies the importance of new rapid transit connections linking Curzon Street to the rest of Birmingham and the West Midlands. The diagram on page 4 showing proposed “*Key public transport infrastructure improvements*” indicates the WBHE as one of these key improvements.

2.31 On page 8 of the Connectivity Package the “*Rapid Transit connections*” identifies the WBHE as one of a number of projects linking the West Midlands to the HS2 Network, describing it as “*investment in high-quality rapid transit schemes as envisaged by the Black Country Core Strategy, linking up Brierley Hill and Wednesbury and then onto HS2 via Metro Line 1 and Birmingham city centre extensions*”. The WBHE is also a named scheme in the “Appendix – Schemes and Measures Overview”.

The HS2 Growth Strategy: Connectivity Programme [WBHE/E7]

2.32 The HS2 Growth Strategy: Connectivity Programme was published on behalf of the West Midlands region by the Greater Birmingham and Solihull LEP. It identifies the importance of ensuring the benefits from HS2 are spread as far as possible across the region and includes four Key Connectivity Strands as set out on page 4:

- **Connectivity to HS2 Stations:** Providing excellent local and sub-regional connectivity to HS2 stations from across the West Midlands, thereby improving access to businesses and job opportunities;
- **An Integrated HS2:** Ensuring the delivery of a fully integrated network between HS2 and the local transport network to maximise accessibility to the HS2 network;
- **Midlands Connect:** a regional transport group made up of all the East and West Midlands Authorities that is preparing a transport strategy for the combined region that aims to maximise connectivity within and to the area through the utilisation of

the capacity released by HS2 on the conventional rail network, major enhancements to the classic rail and highway networks and the optimisation of the Midlands' local rail and road networks for the arrival of HS2; and

- **International Connectivity.** Providing direct international services from the West Midlands to Europe via a direct rail link between HS2, HS1 and the Channel Tunnel.

2.33 The WBHE is a critical element of the HS2 Connectivity programme as it results in enhanced public transport connectivity between the Black Country and Birmingham. It is a named scheme in the plan on page 11 and the "*HS2 Station Connectivity Package: Scheme Description & Costs*" table on page 12 (Scheme 4). It will ensure that the residents of Sandwell and Dudley will have a high-quality link to the HS2 station at Curzon Street and will therefore be able to realise the significant economic benefits HS2 is predicted to produce for the West Midlands area. It is proposed the route will be completed by 2032 and will therefore be available to ensure that residents of the Black Country can access the significant number of construction jobs associated with HS2 using public transport.

3 The Existing West Midlands Metro Tram System

- 3.1 WMCA promotes and develops public transport across the West Midlands. Its aim is to transform public transport so that the people of the West Midlands have a world class public transport system.
- 3.2 WMCA invests in a number of activities designed to improve and enhance the regional transport structure, providing safe and secure travel, working towards a fully integrated public transport system and planning for the future.
- 3.3 WMCA is responsible for promoting and developing Midland Metro, which it owns and operates. Until June 2018 the system was operated by National Express Midland Metro (NXMM) under a Concession Contract. At that time the operation and maintenance of the network was brought in house and the system is now operated by Midland Metro Limited (MML) under the brand name West Midlands Metro. MML is 100% owned by the WMCA and functions as a standalone business. It was awarded a 15-year operations and maintenance contract for the Metro system by the WMCA which started on 24 June 2018.
- 3.4 The Midland Metro Line 1 (“Line 1”) tramway opened in 1999 and originally operated mainly on former rail formation between Wolverhampton City Centre and Snow Hill Station in Birmingham City Centre. It serves the town centres of West Bromwich, Wednesbury and Bilston. On opening it was 20.4 kilometres long, had 23 stops and offered 538 spaces for Park & Ride distributed between four locations along the route.
- 3.5 Prior to the beginning of the recent phase of network expansion annual patronage levels on Line 1 were over 5 million. This demonstrated the attractiveness of the initial Metro system and the significant role Midland Metro plays as part of the wider public transport network. However, a comparison with other UK tram systems identified Midland Metro’s initial lack of city centre on street penetration, particularly into the centre of Birmingham, and its limited fleet and vehicle size as two factors which constrained the original system.
- 3.6 WMCA (and its predecessor Centro) has been seeking for a number of years to overcome these constraints, reviewed options to do so, developed them, considered alternatives, and sought and obtained the necessary statutory powers for two extensions, one from Wednesbury to Brierley Hill (the WBHE) [WBHE/B2] and the other into Birmingham City Centre, the Midland Metro ((Birmingham City Centre

Extension, etc.) Order 2005² (BCCE Order), both of which obtained TWAO powers in 2005. On 29 October 2009 Centro submitted an Outline Business Case ³to the Department for Transport for the “BCCE and Fleet Refurbishment Programme”. This Business Case promoted a scheme for the first phase of the extension in Birmingham using the 2005 TWAO powers, to extend the existing Midland Metro Line 1 from Snow Hill through Birmingham City Centre to the redeveloped New Street Station. In addition, the scheme included a new fleet of trams to operate enhanced service frequencies on the existing system from those currently in operation and an associated extension to the depot at Wednesbury.

- 3.7 Conditional Approval of the Business Case was granted on 4 February 2011 and on 17 February 2012 the Department gave full funding approval allowing contracts to be placed and work to commence.
- 3.8 The BCCE and Fleet Refurbishment Programme was completed in 2016. New trams went into service on Midland Metro Line 1 on 5 September 2014, the extension to Wednesbury depot was completed in November 2014 and works to construct the tramway in Bull Street, Corporation Street and Stephenson Street were opened in stages, to Bull Street in December 2015 and to Stephenson Street in May 2016.
- 3.9 These enhancements provided a 40% increase in capacity on Line 1 through the new fleet of trams and brought Metro onto the streets of Birmingham city centre to the main access to the newly refurbished New Street Station. This has resulted in a significant rise in patronage, with the latest year on year ridership increasing to over 7.5 million passengers in the first year of full operation of the extension. A Metro User Profile survey is undertaken regularly by WMCA to review travel trends and provide data for service planning. The May 2017 Metro User Profile Survey Executive Summary is included as my Appendix 1. This showed that an increased proportion of respondents had a car available for the Metro journey they were making; 25% (1.875 million per annum) stated that a car was always available to them and a further 24% (1.800 million per annum) that one was available sometimes. It is therefore estimated that currently up to 2 million car journeys are taken off the West Midlands road network each year by Midland Metro operation.

² <http://www.legislation.gov.uk/ukxi/2005/1794/made>

³ <https://www.tfwm.org.uk/development/midland-metro-extensions/birmingham-city-centre/>

- 3.10 Funding was subsequently allocated from the Birmingham City Centre Enterprise Zone Investment Plan and the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) to deliver the next stage of the works authorised by the 2005 BCCE Order, from Stephenson Street to Centenary Square. Compulsory powers for the land assembly required to construct this stage of the authorised works were refreshed by the Midland Metro (Birmingham City Centre Extension, etc.)(Land Acquisition and Variation) Order 2016 (S.I. 2016/545), which also authorised a variation of the alignment of the tramway to accommodate the Paradise Circus development. Advanced utility diversions are now completed on this project and the main works commenced in June 2016 with completion planned for late 2019.
- 3.11 In the Greater Birmingham and Solihull Growth Deal announcement on 7 July 2014 [WBHE/D35] the Government allocated provisional funding to GBSLEP to extend Metro from Centenary Square along Broad Street to Hagley Road, Edgbaston, just to the west of Five Ways, terminating outside the office block at No 54 Hagley Road (“the Edgbaston Extension”), the third phase of the works authorised by the 2005 BCCE Order. This will enable the use of the full extent of the powers granted in the works authorised by the 2005 BCCE Order. An application was made to refresh compulsory powers in April 2017 and is currently unopposed and awaiting determination by the Secretary of State. The Department announced full funding approval for this project on 1 September 2017 and it is planned to be in public service by 2021. The extension from Stephenson Street via Centenary Square to Edgbaston is forecast to increase annual network patronage to 12.7 million in 2021.
- 3.12 In addition to the funding for the Edgbaston Extension, the Greater Birmingham and Solihull Growth Deal included funding for a further extension from Stephenson Street to Eastside serving the proposed HS2 Curzon Street Station and onwards through Digbeth. A TWAO application has been submitted for the “Birmingham Eastside Extension”, (BEE) which was the subject of a local Public Inquiry in November 2017 and which is awaiting determination.
- 3.13 Funding is also in place for a further extension within Wolverhampton City Centre for which TWAO powers were obtained in 2016, taking the tram to a fully multi-modal interchange between bus, coach, rail and tram. Advanced works are completed on this extension and the first phase of the main works was completed in September 2018, with the trackwork completed along Piper’s Row, with completion of a second phase and opening to service planned for mid-2020.

- 3.14 Occupancy at the four park and ride sites on Line 1 is over 99% on weekdays. Responding to these high levels of car park occupancy WMCA has obtained planning permission for a new 196 space park and ride site at the Bradley Lane stop; work on this project is under way and it is planned to open in Summer 2019.
- 3.15 In November 2015 the Government announced the West Midlands Combined Authority Devolution Deal [WBHE/D1] which committed to “*funding the Eastside Metro extension to Digbeth, subject to a business case, to support the first part of the HS2 Growth Strategy, and supports the work of the Shadow Board (now the WMCA) to develop a delivery plan, encompassing the Metro extensions from Curzon to Interchange and from Brierley Hill (that is, the WBHE), in order to realise the full benefits of HS2*”.
- 3.16 This WBHE extension to Brierley Hill also has TWAO powers granted in 2005 via the Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order (the 2005 Order), which I expand on in section 5 of my Proof of Evidence. It is 11 km long with 7km along the former South Staffordshire Railway with the remainder running on street in Dudley Town Centre, Merry Hill and Brierley Hill. The scheme will provide up to 17 stops and will integrate with the new Dudley Interchange, for local bus services, and Dudley Port railway station. This extension is planned to open to public service in 2023.
- 3.17 Currently planned to open by 2026 the 16.5km East Birmingham to Solihull Extension (EBSE) will link growing residential areas and key community destinations such as St Andrews, Bordesley Green, Heartlands Hospital and Meadway with existing and new growth areas including Curzon HS2, Birmingham City Centre office and retail districts, Paradise Circus/Arena Central developments and Brindleyplace/Five Ways/Edgbaston to the west, and the NEC/Airport UK Central and HS2 Interchange Station to the east. This extension of the Midland Metro is planned to continue from the BEE terminus in Digbeth through east Birmingham and into Solihull and will play a key role in delivering the full potential for growth and jobs of HS2, providing transformational benefits, in a similar way to the WBHE in the Black Country, to areas with a persistent and high incidence of multiple deprivation by giving people access to jobs and services, linked to the GBSLEP training and skills agenda.

4 Existing Economic Conditions and Transport Provision in the WBHE Corridor

Existing Economic Conditions

4.1 The Black Country comprises the Metropolitan Boroughs of Dudley, Sandwell, Walsall and the City of Wolverhampton. With an area of some 356 square kilometres, the Black Country forms the western part of the West Midlands Metropolitan Area, the largest conurbation outside London. The area is bordered by Birmingham to the east, Staffordshire to the north, Shropshire to the west and Worcestershire to the south.

4.2 The history of the region has made it one of the most important areas in the UK being at the core of the development and expansion of the Industrial Revolution. The decline of industry has left its mark, with the closure of mines and factories, over several decades, leading to an increase in social deprivation and unemployment.

4.3 The Black Country Core Strategy [WBHE/E23] noted in 2011 at paragraph 1.26 that
“There are over 100,000 fewer jobs today than in the 1970s resulting in about 450,000 being in work.”

4.4 This impacts on economic activity and the Strategy notes at paragraph 1.28 that
“A major issue for the whole of the West Midlands Region is its output gap measured in Gross Added Value (GVA) compared to the national average which has been estimated to be £15bn per annum. A significant part of this, £2.4bn or about 30% is attributed to the Black Country and arises from 3 particular circumstances; people not in employment, skills deficit and a lack of economic dynamism, which results in a GVA shortfall of almost £4,400 per head of the population. 1 in 4 of the population have no formal qualifications and only 17.4% have degrees which is more than 10% below the national average.”

4.5 The 2011 census puts the population for the Black Country at 1,139,781. As may be seen from Table 5.1 of the WBHE Outline Business Case Strategic Case [WBHE/D5] at the time of the 2011 census, both Dudley and Sandwell had unemployment levels significantly above the national average and slightly above the West Midlands average. Sandwell has 38.9% of the population with no or low qualifications, while Dudley has an equivalent figure of 35.9%. These are higher than both the West Midlands (32.4%) and UK (29.2%) national averages.

4.6 Unemployment rates in the area have continued to rise, as may be seen from paragraph 5.22 of the Strategic Case, with Office of National Statistics figures for 2016

showing higher rates of unemployment for Dudley (from 5.3% to 6.8%) and Sandwell (from 7.3% to 7.7%) in 2015/16 compared with 2011.

- 4.7 Paragraphs 5.13 to 5.19 of the Strategic Case set out the high levels of deprivation at the level of Lower Layer Super Output Areas (LSOAs) within 2km of the WBHE corridor, noting that in paragraph 5.19 that

“Over 55% of the LSOAs within the 2km buffer of the proposed metro line are amongst the top 20% of the most deprived areas in England, much higher than the proportion within West Midlands Metropolitan area as a whole. The proportion of LSOAs within the top 30% of most affluent areas within England is substantially lower, just 7%, compared to the rest of the West Midlands Metropolitan area, of which almost 11% are within the top 30%.”

- 4.8 The Black Country Local Economic Partnership’s Economic Intelligence Unit maintains and updates a range of data-sets that are used to measure the Black Country’s progress, and their Indices of Deprivation Dataset (which I include as my Appendix 3), based on the Government’s official measure of multiple deprivation at small area level, indicate a worsening picture between 2004 and 2015 for both Sandwell and Dudley, with the proportion of Super Output Areas in the 10% and 20% most deprived in England doubling in that period.

- 4.9 As noted by my colleagues Mr David Carter and Mr Paul Ellingham in their Proofs of Evidence [APP/P2.1 and APP/P5.1] there is considerable scope within the corridor for development to take place, to overcome these difficulties, but major employment and residential developments, both in the WBHE corridor and that facilitated by the proposed HS2, need to be highly accessible in order to maximise their potential. The deficiencies of the existing transport network in the corridor hamper this, as noted in paragraph 5.1 of the Black Country Core Strategy [WBHE/E23] which states:-

“Good connectivity to the wider region national transport networks and Birmingham International Airport for both passengers and freight has been identified as being necessary to support the regeneration of the Black Country. The economic growth will be supported by improved access to major global economies.”

Existing Transport Provision

- 4.10 As noted in section 7 of the WBHE Outline Business Case Strategic Case [WBHE/D5] the Black Country is well connected to the strategic road network. The M6 and the M5 meet just south of Walsall and provide direct connections to the north, south and south

west. The local, regional and national road network is characterised by significant congestion and slow average speeds during peak periods, with some major traffic generators, such as town centres and Merry Hill, suffering congestion throughout the entire day. This congestion has a significant impact on movement and the economy of the area.

4.11 The predominant mode of public transport in Sandwell and Dudley is bus. The area is served by a variety of local bus companies, some more widespread in their services than others. The more notable of these operators include:

- National Express West Midlands;
- Arriva; and
- Rotala.

4.12 Overall the connectivity of bus services within the vicinity of the proposed Metro Line is good. However, due to high levels of congestion and unreliability of journey times there is a lack of suitably attractive services on routes which operate between Wednesbury, Dudley, Merry Hill and Brierley Hill. This, therefore, demonstrates that there is a clear need to improve public transport services between these areas of importance and further afield to Birmingham City Centre.

4.13 As I set out in section 3 of this Proof of Evidence the West Midlands Metro, which has two stops at Wednesbury (Wednesbury Parkway and Wednesbury Great Western Street) is operational between Wolverhampton and Birmingham New Street in central Birmingham.

4.14 The closest railway stations to the WBHE corridor are that of Dudley Port and Tipton, which provide services to the key centres of Wolverhampton, Walsall and Birmingham. There are no rail services which serve Brierley Hill or Dudley town centre directly. As noted in the Local Partnerships Dudley Council report, which I include as my Appendix 4, on page 1:-

“At the 2011 census, the population of the wider borough was 312,925. The smaller Dudley built-up area had a population of 79,379, making it one of the largest towns in Britain without city status.”

4.15 It is also one of the largest towns in Britain without its own railway station, whereas other comparably large towns such as Reading, Northampton, Luton, Milton Keynes, Walsall, Basildon, Bournemouth, Southend-on-Sea, Swindon, Huddersfield, Poole,

Middlesbrough, Blackpool, Bolton, Maidstone, Ipswich, Telford and Stockport do benefit from such access.

- 4.16 The nearest railway station, Dudley Port, is served only by local services between Wolverhampton and Walsall via Birmingham New Street by West Midlands Trains. There is one service every 30 minutes which goes to and from these stations. While the local rail network in the West Midlands has seen an increase in passenger journeys of 134% over the last 10 years, the important part of the Black Country in the environs of Dudley and Brierley Hill has not been able to realise these benefits due to its restricted access to the rail network.
- 4.17 Figure 7.1 of the Strategic Case [WBHE/D5] summarises the public transport provision in the area.

5 Evolution of the Scheme

- 5.1 Prior to the opening of Metro Line 1 in 1999, work commenced in 1998 to consider a number of smaller extensions, which had to meet the following criteria:
- To be connected to Line 1;
 - To be able to share the Line 1 depot;
 - To attract private investment; and
 - To be affordable.
- 5.2 This work evaluated a number of proposed three “bite-sized chunks” extensions, resulting in the proposal for three to be taken forward in Birmingham and Wolverhampton city centres and the WBHE.
- 5.3 On 16 April 2003 the predecessor to WMCA, Centro applied for an order to be made under the Transport and Works Act 1992 Sections 1 and 5, the 2005 Order [WBHE/B2], together with related applications for deemed planning consents.
- 5.4 Between 23 March and 16 April 2004, Mr Graham Self MA MSc (Eng) DipIC FRTPI, held a Public Local Inquiry at the Copthorne Hotel, Brierley Hill for the purposes of hearing objections and representations concerning the application for the 2005 Order.
- 5.5 There were 77 objections to the 2005 Order, including two letters received during the inquiry which were treated as late objections. Written representations in support of the application were received from seven persons or organisations. At the opening of the Inquiry 29 objections were outstanding and twelve objectors appeared or were represented at, the inquiry.
- 5.6 On 23 May 2004 Mr Self submitted his report – [WBHE/B8] - on the Inquiry to the First Secretary of State for Transport. Mr Self concluded that there was a compelling case for the Order in the public interest and recommended that the Order should be made and that the deemed planning consent should be granted.
- 5.7 On 20 December 2004 the Head of the TWA Orders Unit at the Department for Transport wrote [WBHE/B6] to confirm that the First Secretary of State had decided to make the 2005 Order, subject to modifications, and to direct that planning permission be deemed to be granted subject to conditions.
- 5.8 Having obtained the 2005 Order, Centro continued to focus on funding and delivery, against a challenging backdrop.

- 5.9 On 21 July 2006 Centro submitted an Outline Business Case seeking Conditional Approval from the Department for Transport (“DfT”) for the full extent of the works authorised by the 2005 Order, together with those authorised by the BCCE Order 2005. Receipt of Conditional Approval would have enabled Centro to seek tenders for the work packages contained within the Outline Business Case, and having obtained firm prices, seek a further Full Approval from Government.
- 5.10 Whilst the 2006 Outline Business Case was never rejected by the DfT, funding for the two projects was not forthcoming due to overall national funding constraints.
- 5.11 Consideration was then given in 2007 to incorporation of the WBHE within a very significant package bid for funding under the Transport Innovation Fund, with funding secured by the introduction of road pricing within the West Midlands. In March 2008, following an 18-month study on the impact that charging would have on businesses and residents in the region Leaders of the 7 West Midlands Councils decided not to submit a bid for funding under the Transport Innovation Fund.
- 5.12 Centro exercised the 2005 Order planning powers in the discharge of conditions and undertaking of material operations at Dudley Port Railway Station and in the centre of Dudley at the Dudley Interchange tram stop in 2009/10. Both relevant planning authorities, DMBC and SMBC, were satisfied that all necessary pre-conditions had been met, as evidence by the letters received from DMBC and SMBC [WBHE/F6 and WBHE/B10] and [WBHE/B11] at the time. These letters confirm that a Material Operation comprised in the development was commenced prior to the time limit specified in Condition 1 and the development has therefore been implemented and planning consent as well as statutory authority to construct and operate the WBHE is in place.
- 5.13 Centro then reviewed its delivery strategy for the schemes submitted in the 2006 Outline Business Case with a view to seeking funding for elements of the overall package that could be delivered within the likely scale of the DfT’s Regional Funding Allocation for local transport projects in the West Midlands.
- 5.14 Thus, on 29 October 2009 Centro submitted an Outline Business Case to the Department for Transport for the “BCCE and Fleet Refurbishment Programme”, leading to the progress in the development of the West Midlands Metro system which I describe in section 3 of this Proof of Evidence.

- 5.15 The advent of the WMCA in 2015 and the momentum created by the West Midlands Devolution Deal and the prospect of HS2 led to a more positive funding climate for the WBHE project. Work was undertaken in 2016/17 to refresh the engineering of the scheme and prepare an updated project business case. The Outline Business Case [WBHE/D3-7] was formally presented to the Secretary of State for Transport on 19 June by the Mayor for the West Midlands, leading to the funding approval via the Transforming Cities Fund that I note in paragraph 8.7.
- 5.16 As part of the engineering work described above WMCA developed new proposals for the rail corridor section of the WBHE alignment, building on earlier value engineering studies.). The WBHE scheme was originally based in 2005 on a twin track alignment for Metro leaving space for a segregated single-track alignment provision for Heavy Rail. At pinch points such as Parkhead Viaduct and Dudley Port the alignment reduced to a separate single track for each of the modes. The current proposal and the Proposed Order are based on the optimisation of the scheme along the sections of the former rail corridor on the basis of twin track Metro only, with passive provision for future conversion to tram and train (freight) shared running. This has been accepted by Network Rail, in line with the recent shared running scheme at Rotherham in South Yorkshire; Network Rail however has no plans to implement freight along the corridor at present.
- 5.17 Condition 2 of the planning conditions attached to the 2005 Order [WBHE/B7] stipulated that if the design was varied from the centre line presented at inquiry, to take any running rail within areas hatched green on the planning drawings [WBHE/B12] this would need to be submitted to and approved by DMBC and SMBC, accompanied by an appropriate environmental assessment. This was to ensure that residual adverse environmental noise impacts would be no greater than those assessed in the Environmental Statement [WBHE/B9] and supplementary environmental information.
- 5.18 As the design of the WBHE has been further developed, and in the light of the changes outlined above, some of the track does encroach upon the green hatched areas at a number of locations along the route. On 27 April 2018, after consultation with both local authorities, WMCA submitted appropriate planning and environmental information to both DMBC and SMBC [WBHE/B14] and received confirmation, in April and August 2018 respectively [WBHE/F22 and 23], that this condition has now been discharged.

Alternatives

5.19 The WMCA Statement of Case [WBHE/F5], in Section 5.54 onwards, sets out the alternatives to WBHE considered in terms of alternative modes and alternative route options. A robust and thorough consideration has been given to alternatives in the scheme development, over a lengthy time period. The WBHE remains the best option to overcome the difficulties caused by poor transport connectivity to and from Dudley and Brierley Hill.

6 The Scheme Proposals

The Objectives of the Scheme

- 6.1 WBHE has been developed to address the poor economic conditions in the corridor and the deficiencies in the public transport offer which I have described in section 4 of this Proof of Evidence and to meet the need for the scheme set out in section 7. The core objectives listed below are set out in the Wednesbury to Brierley Hill Business Case - Strategic Case [WBHE/D5] and establish the framework against which the success of the WBHE can be judged and support the vision for the West Midlands.

Support regeneration in areas of high deprivation through improved connectivity with areas of opportunity

- 6.2 In paragraphs 10 and 11 of his decision letter [WBHE/B6], the Secretary of State considered the need, objectives and justification for the WBHE and referred to paragraphs 7.58 to 7.68 of the Inspector's report [WBHE/B8]. the Secretary of State recorded the following conclusions:

"Although some objectors had questioned the need for the scheme, the Inspector considered that the points made in the pages 12-14 of the Environmental Statement submitted with the TWA application ("the ES"), regarding the need and general justification for the scheme remained valid. He noted in particular that the proposed route would pass through some deprived areas and contribute to regeneration, as well as serving areas of new development."

"The Secretary of State agrees with the Inspector's analysis of the overall need and justification for the scheme. He agrees that the scheme is supported by planning and transport policies at the national, regional and local levels and that the scheme would bring transport, re-generation and socio-economic benefits to the area." Support economic development by improving the accessibility of (major) employment and residential sites;

- 6.3 These conclusions remain valid today. The WBHE will create a sustainable, fast and congestion free link between Brierley Hill, Dudley, Wolverhampton and Birmingham. Future development of the Midland Metro, as set out in section 3 of this Proof of Evidence will provide a further direct link to the major growth areas planned around the proposed HS2 stations and Birmingham Airport. The scheme also supports a range of local initiatives that aim to enhance the growth prospects for the area and improve the prosperity of residents in the Black Country. Specific initiatives include the Brierley Hill

Business and Innovation Enterprise Zone, the Merry Hill Masterplan area and the Black Country Garden City.

Enhance the prosperity of Black Country residents and businesses through providing better access to employment and a wider workforce

6.4 Through enhanced transport links and journey time savings, the WBHE has the opportunity to improve local access to employment opportunities as well as wider services for local residents residing in the catchment area. Key benefits are expected to include:

- Better access and flexibility for local people to a wider labour market and employment opportunities (within Dudley, Sandwell and further afield across the Black Country), reducing unemployment by removing key barriers to labour market participation/entry;
- Improved local access to higher value, higher paid employment opportunities, particularly within the Black Country's key employment locations such as Birmingham;
- Increasing effective labour market catchments, providing employers with improved access to skills and labour, reducing costs of recruitment and supporting business expansion;
- Enhanced accessibility to local shops, services and facilities, expanding choice, convenience and supporting social/community networks; and
- Encouraging more sustainable commuting by improving access to public transport and minimising the need for car usage.

Improve the education and skill base of the residents of Sandwell and Dudley by providing wider access to universities and colleges throughout the West Midlands

6.5 WBHE will provide enhanced, accessible, rapid and reliable public transport to and from a large number of universities and higher education establishments in Birmingham and Wolverhampton City Centres, as well as thriving local colleges at Dudley and West Bromwich; these will become more accessible to residents in these areas as a result of the Metro scheme, making higher education a more viable opportunity for potential students in the area. This will result in a more qualified population with a greater chance of employment in more skilled and lucrative careers.

Encourage modal shift from private car by delivering a high quality and reliable public transport service

- 6.6 A journey time comparison between the WBHE and existing bus routes servicing Birmingham City Centre shows that with the scheme in place, public transport times will reduce by around 50%, which will significantly improve the potential employment prospects for residents of Sandwell and Dudley.
- 6.7 Compared to average car journeys from this area to Birmingham City Centre, the proposed Wednesbury to Brierley Hill scheme will be slightly slower than the car. However, the high prices for car parking in Birmingham City Centre and the unreliability of car journey times to the city impacts on the use of the car as a mode of travel to work, which acts as a barrier to employment in the city for residents of Sandwell and Dudley, as well as, for many, the lack of access to a car. Users of the Metro scheme will not be subjected to the journey time reliability issues and car parking charges that deter the use of the car and will therefore provide greater opportunity for residents to access employment in the city centre.

Support an integrated transport network through providing seamless interchange

- 6.8 The WBHE forms a significant part of the Metropolitan Rail and Rapid Transit Network which is outlined in the West Midlands Strategic Transport Plan - Movement for Growth [WBHE/E10]. This network is based on suburban rail, metro - light rail, tram-train, very light rail and Sprint Bus Rapid Transit lines running on suitable routes of one single network. This system will be easy to understand, use and be provided with high standards of customer care. It will be integrated with local bus services and underpinned by park and ride, passenger information, promotion and ticketing. WMCA's Swift travel smartcard usage is currently 4.8 million journeys per month meaning it is the largest travel card outside London.

Deliver a high-quality public transport service in a manner that supports local environmental and safety benefits.

- 6.9 The Transport Focus 2017 Tram Passenger Survey [WBHE/F16] found that 90 per cent of West Midlands Metro passengers are satisfied with their journey overall, demonstrating that the West Midlands Metro does provide a high quality public transport service, comparing well to other modes such as rail (81% overall satisfaction

for West Midlands Trains in the 2018 National Rail Passenger Survey⁴, the relevant extract from which is included as my Appendix 5, and 85% overall satisfaction for bus in the West Midlands area in the Autumn 2017 Bus Passenger Survey⁵, the relevant extract from which is included as my Appendix 6).

The Scheme

- 6.10 The WBHE commences at Wednesbury where it connects to Line 1 and the rest of the Metro network via a delta junction to the rail corridor. From here it runs along the corridor through Gold's Hill, Great Bridge and interchanging with the West Coast Mainline at Dudley Port Station before entering Dudley borough and approaching Dudley Town Centre and connecting with the Black Country Living Museum and Dudley Zoological Gardens.
- 6.11 The route leaves the rail corridor south of the town centre running on-street up Castle Hill and into Birmingham Street to provide interchange with the buses at Dudley interchange and access to the town centre. It continues on street along King Street and Flood Street before running alongside Duncan Edwards way on a purpose-built viaduct, before re-joining the rail corridor at Cinder Bank. The WBHE then runs along the corridor and over Parkhead Viaduct leaving the rail corridor at Harts Hill to connect to The Waterfront and Merry Hill Shopping Centre, terminating in Brierley Hill Town Centre in Little Cottage Street.
- 6.12 There are up to seventeen tramstops proposed along the length of the route, as listed below.
- Gold's Hill to serve local businesses and development;
 - Great Bridge to serve local residents and the town centre;
 - Horseley Heath to serve local residents and businesses and park and ride provision;
 - Dudley Port to serve local residents and interchange with heavy rail and park and ride (existing) plus the proposed Black Country Garden City development;

⁴ <https://www.transportfocus.org.uk/research-publications/publications/national-rail-passenger-survey-nrps-spring-2018-main-report/>

⁵ <http://d3cez36w5wymxj.cloudfront.net/wp-content/uploads/2018/03/14203607/BPS-Summary-Report-Report-Mar-2018.pdf>

- Sedgley Road East to serve local residents and Tipton town centre;
- Birmingham New Road to serve local residents;
- Tipton Road to serve local residents, Dudley Zoological Gardens, Black Country Living Museum, the Dudley College Development and Castlegate complex;
- Station Drive to serve the south of Dudley Town Centre, Dudley Zoo and Castle, the VLRNIC;
- Dudley Town Centre to interchange with the buses at Dudley interchange, Dudley Town Centre including the Churchill Centre and the development on Portersfield;
- Flood Street to serve businesses, Dudley Leisure Centre residents and development;
- New Road to serve local residents plus park and ride;
- Cinder Bank to serve local residents and businesses;
- Pedmore Road to serve local residents and businesses;
- Canal Street to serve local development including DY5 Business and Innovation Enterprise Zone;
- The Waterfront to serve the businesses residents and leisure facilities;
- Merry Hill to serve the shopping centre and leisure facilities; and
- Brierley Hill to serve the town centre businesses, Dudley College and health centre.

6.13 Within the Order site boundary, works required to be undertaken could be temporary and / or permanent in nature, depending on the location. Within the Proposed Order [WBHE/A2] are three categories of land:

- Schedule 1 Part 1 - Permanent land: this is land that is permanently required for the construction, maintenance and operation of the tramway; and
- Schedule 1 Part 2 - Permanent rights over land: this is land over which permanent rights need to be acquired for the construction, maintenance and operation of the tramway. My colleague Mr Bruce Fowler deals with this in more detail in his Proof of Evidence [APP/P6.1].
- Schedule 3 - Temporary land: this is land that is temporarily required for providing construction access and carrying out minor highway works;

6.14 The following works and associated operations are intended to be undertaken.

Permanent Works

- Installation of permanent Overhead Line Equipment (“OLE”) poles including associated foundations (final number subject to detailed design);
- Installation of permanent OLE building cable fixings (final number subject to detailed design);
- Installation of OLE;
- Earthworks, track laying and other associated infrastructure such as track drainage and alterations to existing highway drainage;
- Highway alterations including realignment and reinstatement/repaving of highway footpaths and dedicated cycle facilities;
- Modifications to highway signalling;
- Installation of tram signalling, communication and electrical equipment;
- Construction of new tram stops as listed in paragraph 6.12 above.
- Hard and soft landscaping works;
- Accommodation works (e.g. works required to boundary walls, gates or frontages to accommodate the tram alignment);
- Installation of parallel feeders (cables and ducting that will run parallel to both tracks); and
- Cabinets to contain communication equipment and system, envisaged to be located within highway land

Temporary Works

- Construction compounds – for storage of materials, plant and machinery, site accommodation including the provision of welfare

6.15 In some sections of the route there is the potential for catenary free running where the tram can be powered by batteries affixed to the roof of the tram rather than via overhead power lines. This may be desirable in different sections of the route either to reduce visual impacts or to provide additional clearances at structures; however, the precise sections of route where this may be possible are yet to be determined. This is dependent on the successful completion of the retrofit of batteries to the existing Urbos

3 tram fleet. WMCA has placed orders for the retrofit of battery equipment to the vehicles to enable “catenary free operation” along these sections of the route, within contract options in the 2012 Tram Supply Contract with CAF.

- 6.16 A programme for the retrofit operation is under way, with the majority of the battery retrofits taking place at Wednesbury depot. The first of the trams to be retrofitted was sent back to Spain in January 2017 and underwent routine tests prior to being sent back to Wednesbury in September 2017. The retrofit works for the remaining 20 trams commenced in December 2017 with the final retrofit being completed in December 2019.
- 6.17 A “third-generation” tram fleet will be required to be procured to serve the BEE, WBHE and EBSE extensions. This procurement is in progress as part of the schedule for the project/programme, with tram supply options within an overall contract being timed to supply tested and commissioned trams in time to undertake testing and commissioning of this extension. WMCA used the “second-generation” tram procurement documentation, incorporating lessons learned from that procurement, to develop the contract, tender documents and specification for the new contract.
- 6.18 Further details of the engineering aspects of the WBHE scheme are given in the Proof of Evidence of my colleague Mr Ian Collins [APP/P3.1].

7 The Need for the Scheme and its Benefits

Need for the Scheme

- 7.1 In Section 4 of my Proof of Evidence I note that the area within 2km of the WBHE corridor suffers from high levels of deprivation, and poor public transport connectivity to growth areas for jobs and services, as well as to and from existing strategic centres. There are no conveniently closely located rail stations, and as such the areas suffers from a lack of rail-based transport options. There is significant road congestion, which impacts on car travel and the extensive local bus network upon which public transport users rely.
- 7.2 A comparison of journey times was undertaken for the existing modes of transport between the proposed tram stops from Brierley Hill to Bull Street in the centre of Birmingham, to evaluate car and bus journey times and those of the forecast journey times of the WBHE during an average peak period. This was reported in Table 7.5 and paragraphs 7.47 onwards of the Wednesbury to Brierley Hill Business Case - Strategic Case [WBHE/D5] and this table is replicated below at Table 7.1 below.
- 7.3 This analysis has been based on current timetable information and internet based average peak hour car journey times. The data does not include journeys that utilise multiple public transport modes and does not include time taken to park and time waiting for the bus..

Stop	Car	Bus	Metro Extension
Great Bridge Tram Stop	25 mins	66 mins	29 mins
Horsley Road Tram Stop	27 mins	71 mins	31 mins
Dudley Port Tram Stop	28 mins	72 mins	33 mins
Sedgley Road East Tram Stop	30 mins	79 mins	35 mins
Birmingham New Road Tram Stop	31 mins	77 mins	37 mins
Tipton Road Tram Stop	30 mins	77 mins	38 mins
Dudley Bus Station Tram Stop	33 mins	65 mins	40 mins
Cinder Bank Tram Stop	30 mins	78 mins	45 mins
Pedmore Road Tram Stop	35 mins	80 mins	46 mins
Waterfront Tram Stop	35 mins	86 mins	48 mins
Merry Hill Tram Stop	40 mins	81 mins	51 mins
Brierley Hill Terminus	40 mins	84 mins	53 mins

Table 7.1 Comparison of Different Journey Times by Mode from Proposed Brierley Hill Stops to Bull Street in Birmingham City Centre

- 7.4 This analysis shows that existing car journey times are quicker than current public transport (bus) journey times. With the introduction of the WBHE it is expected that journey times on public transport will decrease by an average of around 50%. Compared to average car journey times from the stops to Birmingham City Centre, the proposed WBHE is expected to result in slightly higher journey times by an average of around 25% when compared with the car. However, this must be balanced against the high prices and lack of availability of car parking in Birmingham City Centre, together with the unreliability of car journey times to the city. These disadvantages affect the use of the private car as a travel mode to work and, as noted in paragraph 7.50 of the Wednesbury to Brierley Hill Business Case - Strategic Case [WBHE/D5], act as a barrier to employment in the city for residents of Sandwell and Dudley, as well as the lack of access to a car for many residents. Users of the WBHE will not be subjected to the journey time reliability issues and car parking charges that deter car use and, with the opportunity for faster, reliable transit, WBHE will provide greater opportunity for residents of Sandwell and Dudley to access employment in the city centre.
- 7.5 The extent of the need for the scheme is demonstrated by the forecast increase in annual patronage on Midland Metro through its provision of an enhanced, high quality connection to locations on the WBHE corridor, and as a result of the increased connectivity that is currently lacking, annual patronage on Midland Metro is forecast to increase from 12.1 million to 17.5 million (a 44% increase) in 2031 (WBHE Business Case Economic Case Table 3.3 [WBHE/D7]).

Transport Benefits

- 7.6 The key benefits of the WBHE are set out in the Proof of Evidence of my colleague Mr David Carter [APP/P2.1] in terms of social, environmental and economic considerations, as appraised in applying the five-case business case method.
- 7.7 In terms of the overview of the scheme the main benefits are as follows:
- Positive transport user and non-user benefits,
 - Increased public transport net revenues,
 - Transfer from private car use,
 - Improved accessibility,
 - Improved reliability of journeys,
 - Improved security,

- Improved townscape
- Distributional benefits (see table 7 of APP/P2.1),
- Wider Economic Benefits, and
- Land value uplifts.

7.8 My colleague Mr David Carter sets out the Treasury and Department for Transport's approach to project appraisal within his Proof of Evidence [APP/P2.1]. The Business Case for the WBHE [WBHE/D3-7] is consistent with the Treasury's approach and as set out in the January 2013 DfT publication "The Transport Business Cases" [WBHE/D23]; the DfT's approach requires the development of a 'Five Case' business case. These cases are: Strategic Case, Economic Case, Financial Case, Commercial Case and Management Case. The purpose of the business case is to demonstrate that:

- There is a robust rationale for the proposed scheme
- The proposed scheme will deliver value for money
- The proposed scheme is affordable in terms of sources of funding (for construction and operation)
- Robust procurement arrangements for the necessary elements of the proposed scheme exist
- Robust governance arrangements exist, and effective project management is in place

7.9 The business case for this scheme [WBHE/D3-7] has followed this Five Case model.

7.10 The Strategic Case [WBHE/D5] covers the local policy context, including the plans and policies of WMCA, DMBC, SMBC and the BCLEP. These main policies are listed in Section 2 of my Proof of Evidence and my colleague Mr Paul Ellingham sets out in his Proof of Evidence [APP/P5.1] a full analysis of how the WBHE accords with National, Regional and Local policy.

7.11 The Economic Case [WBHE/D7] sets out the Value for Money of the project in accordance with Government Guidance [WBHE/D23] and shows that the scheme represents good value for money with a benefit to cost ratio of the scheme calculated as 2.27:1. The net present value over the appraisal period is £275 million. The

evidence of my colleague Mr David Carter [APP/P2.1] covers the Economic Case in further detail.

7.12 The Financial Case for the project [WBHE/D4] confirms the expected outturn costs and the funding sources from which they will be met.

7.13 The Commercial Case [WBHE/D3] demonstrates WMCA's recent experience in procurement of Midland Metro extensions with the BCCE and Fleet Replacement Programme, and the Midland Metro Alliance. The WBHE will be delivered through the Midland Metro Alliance using experienced teams that have been established to deliver the current works on Bilston Road, CSQ and WCCE. The Financial, Management and Commercial cases [WBHE/D3,4 and 6] are covered in more detail below of my Proof of Evidence.

7.14 The Business Case [WBHE/D3-7] is a strong one, showing that the benefits of the scheme greatly outweigh its monetary costs and other disbenefits, and is noted as being in the "High" category when assessed against the Department for Transport's Value for Money Framework contained within its Value for Money Assessment: Advice Note for Local Transport Decision Makers [WBHE/D24], and as a consequence public sector funding of the project is warranted.

Regeneration

7.15 There is considerable scope for regeneration and growth in the area of the WBHE corridor, as has been highlighted by the designation of the DY5 Enterprise Zone at Brierley Hill and in Dudley town centre. Prospective development sites have however been found to be difficult to bring to fruition due, in part, to the difficulties with the existing transport network that I have set out in section 4 of my Proof of Evidence, with poor transport connectivity, particularly to central Birmingham, being a prime reason for these difficulties.

7.16 This point is well illustrated in the WMCA's note for the Department for Transport [WBHE/D30] on land value uplift, and uses the Daniel's Land site at Merry Hill as an example of the unlocked potential of the area that will be released with the connectivity that will be provided by the WBHE. In 2004 planning permission was granted for the erection of 98 apartments, and 11,505 m² of office floorspace to the former owners of the Merry Hill estate. Despite considerable, high-profile marketing of the site to development companies this site and its location next to the canal and close to local facilities remains derelict; this is considered to be due to the site's very poor

connectivity which will be overcome by the construction of the WBHE scheme as it is located within walking distance of a number of stops.

- 7.17 The dependency of regeneration upon the WBHE is also illustrated by the statements in the letters of support from Jeremy Knight-Adams, a very experienced professional developer and the promoter of the Portersfield mixed use redevelopment scheme in Dudley Town Centre [WBHE/D40] and from Dudley College [WBHE/D41]. Mr Knight-Adams stated:

“I firmly believe that the key to the wholesale regeneration of Dudley Town Centre, including the development of my scheme, is the proposed Metro extension and the new bus interchange. My development is only economically viable if the physical transport links envisaged by the Metro extension are implemented, however I can confirm that I will be proceeding with my development if the Metro extension gets the go ahead.”

- 7.18 In supporting the WMCA’s application to Government for funding the WBHE the principal of Dudley College wrote [WBHE/D41] that

“The extension of the metro route to Dudley is a fundamental requirement in respect of the development of the UCD6. The specialist facilities and resources provided by the UCD will draw learners from across the region and beyond. It is vital that there is an adequate public transport network to provide access to the UCD and the metro is integral to this. Failure to secure the metro extension would put into question the development of the University Centre Dudley”.

- 7.19 Independent specialist consultants, Lichfield, were commissioned by DMBC in partnership with SMBC, BCLEP and the Black Country Director of Transport to assess and quantify the scale of economic impacts associated with the WBHE. The study [WBHE/D28], which was published in August 2017 considered the overall economic impact of the WBHE as well as direct and indirect benefits to the wider West Midlands economy.

- 7.20 The outputs from the study, which considered the zone within 2km of the WBHE over a period of 25 years, are complementary to the Midland Metro Wednesbury to Brierley Hill Wednesbury to Brierley Hill Business Case (November 2017) developed by WMCA

⁶ University Centre Dudley

("the Wednesbury to Brierley Hill Business Case") [WBHE/D3-7]. The study identified and quantified some of the more tangible economic and local growth-oriented benefits associated with the WBHE, including the benefits associated with the development value that the WBHE unlocks or enhances, and associated outcomes that it supports.

7.21 The report of the Lichfield assessment states at paragraph 2.8 that:

"The extension of the Metro through Wednesbury to Brierley Hill provides a game-changing opportunity for the economic, social and environmental regeneration of the area. The location of Metro stations has the potential to facilitate growth and regeneration, including being the focus of higher density development, as well as enhancing connectivity with other public transport modes."

7.22 The study confirmed that the WBHE would act as a significant enabler and accelerator of growth in the area, as summarised in the infographic at the front of the report, which compares the "With Metro Extension" and "Without Metro Extension" scenarios. In the "With Metro Extension" scenario, the report predicate the following outcomes assessed across the West Midlands region, when compared with the no scheme picture:

- A 250% increase in the annual delivery of new homes (from 570 to 2000 per annum);
- A 36% increase in the annual delivery of commercial floorspace (from 634, 500m² to 865,900m²);
- A 29% increase in permanent jobs (from 26,070 to 34,560 over a 25-year appraisal period);
- Almost double the economic output (from £14.4bn to £28.6bn over a 25-year appraisal period);
- A 46% increase in council tax receipts (from £396.5m to £580.5m over a 25-year appraisal period); and
- A 160% increase in business rates (from £121.1m to £318.1m over a 25-year appraisal period).

7.23 These figures demonstrate the strength of the economic case for the development of the WBHE and hence, the case for compulsory powers to enable the WBHE to be implemented.

Conclusion

- 7.24 The WBHE will deliver significant transport benefits, with the scheme falling into the “High” category when assessed against the Department for Transport’s Value for Money Framework [WBHE/D24]. It has positive social impacts, as set out by my colleague Mr David Carter in his Proof of Evidence [APP/P2.1], with its benefits being particularly experienced by those in the most deprived quintile for national indices of multiple deprivation. Assessed on its own merits within the Economic Impact Assessment [WBHE/D28] the scheme will deliver significant economic benefits, with a predicted doubling of economic output over 25 years within the 2km corridor around the WBHE route.
- 7.25 There is therefore a compelling case in the public interest for the making of the Proposed Order.

8 Delivery**Funding**

- 8.1 The Funding Statement [WBHE/A6] describes WMCA's proposals for funding the costs of implementing the WBHE and estimates the outturn cost for the WBHE, including forecast inflation, to be £343.6 million. This assumes construction of the WBHE is completed, in its entirety, by October 2023.
- 8.2 As with any long-term major scheme of this type, WMCA has continued to take work forward where feasible, including further surveys and outline design work. This has continued during the application process for the Proposed Order and is an ongoing process carried out by the Midland Metro Alliance ("MMA") with oversight as appropriate by the WMCA Board. The MMA and its role is explained in more detail in paragraphs 8.35 onwards. In due course, and once the MMA has submitted firm contractual prices to WMCA, the estimated cost of the WBHE, as revised and updated, will inform the Final Business Case for approval through WMCA's normal assurance and governance approval processes. There is no deadline for this, and it is, to an extent, dependent upon the outcome of this statutory process. However, further information will be made available to the Inquiry into the application for the Proposed Order if it becomes available.
- 8.3 The WBHE will be funded from the following sources:-
- Black Country Local Enterprise Board Local Growth Funding
 - Central Government Grant
 - Contributions from third parties
 - WMCA Contribution (HS2 Connectivity Package)
- 8.4 The funding of the estimated outturn costs of the WBHE, as set out in the Funding Statement submitted with the application [WBHE/A6], is shown below in Table 8.1 below, and the various elements of funding are explained in the following paragraphs:

Table 8.1

	2016/17 & Prior	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Total
Estimated Capital Cost (QCE)	2.0	5.6	12.0	12.2	39.0	126.1	117.1	29.6	343.6
Funded By:									
BCLGF	0.4								0.4
Government Funding					70.4	126.1	10.5		207.0
WMCA Contribution	1.6	5.6	12.0	12.2	-31.4	0.0	103.0		103.0
Other Contribution							3.6	29.6	33.2
Total	2.0	5.6	12.0	12.2	39.0	126.1	117.1	29.6	343.6

- 8.5 In the Black Country Growth Deal announcement on 7 July 2014 [WBHE/D34] the Government placed great importance on maximising the benefits of HS2.
- 8.6 The Growth Deal noted that the Black Country benefits from excellent regional and national transport links but in key areas this infrastructure has not kept up with the pace of growth. The Growth Deal confirmed investment in a package of projects which began to address these challenges and improve transport connections within the Black Country, enabling better access to employment opportunities, new homes and revitalised town centres for local people. Projects announced in that funding package, such as the Wolverhampton Interchange, will also prepare the Black Country for the arrival of HS2 and the opportunities for national and international growth it will create.
- 8.7 The first West Midlands Devolution Deal published on 17 November 2015 [WBHE/D1] and the HS2 Connectivity Package [WBHE/E19] identified the WBHE as a high priority and subsequently included it as a named scheme within this £8bn package of investment as described below. Funding of £250 million from the new Transforming Cities Fund was allocated to WMCA by the Government on 20 November 2017, including the Government funding requested in the Wednesbury to Brierley Hill Business Case [WBHE/D3-7]. This was confirmed within the second West Midlands Devolution Deal announced on 23 November 2017 [WBHE/D2]. The WMCA Board approved the allocation of £207 million of this funding to the WBHE project on 8 December 2017 [WBHE/B15].
- 8.8 The BCLEP funding of £400,000 has already been provided and expended on early stage scheme development. The WMCA contribution of £103.0m is funded as part of the HS2 Connectivity Package [WBHE/E19]. This allocation is recorded as a commitment in Appendix 7 of the Financial Monitoring Report to the WMCA Board at its meeting of 9 November 2018, which is included at my Appendix 7. At the same meeting, a report on the Transforming Cities Fund allocated £10m to the Dudley Interchange project to enable it to be delivered in harmony with the WBHE delivery schedule. This report is included at my Appendix 8.

- 8.9 The £33.2 million of “Other Funding” in Table 11.1 is expected to be provided by third party funding. Funding contributions are being sought from a number of third parties. Such contributions will be confirmed prior to a Final Business Case submission to WMCA.
- 8.10 Should third party funding not fully meet expectations, or costs rise above those in the Funding Statement [WBHE/A6], WMCA would utilise prudential borrowing, funded from the West Midlands Metro cash flows, which are a primary revenue source against which WMCA can secure borrowing, thus reducing any potential burden or impact on the overall WMCA transport budget. Following the transfer of Metro operations to TfWM in 2018, such borrowing will be funded from operating revenue now accruing to WMCA (after financing required capital renewals).
- 8.11 The WMCA Transport Budget is funded by a levy from its seven constituent councils. Section 1 of the Local Government Act 1973 provides local authorities with the power to borrow, and section 423(5) extends this to combined authorities in respect of their transport functions. Such prudential borrowing, were it to be required, would necessitate an increase in the levy to fund the costs of the interest and principal on the loan in the event that the Midland Metro was unable to make a sufficient financial contribution through operating or other revenues.

Blight Expenditure

- 8.12 Blight expenditure is not anticipated to arise as a consequence of this application. However, as set out in the Funding Statement [WBHE/A6] any such costs will be met from the contingency provisions for risks.

Business Case – Management Case [WBHE/D6]

- 8.13 The Management Case covers governance, project planning and delivery, engagement, risk management, monitoring and evaluation and sustainability.

Governance

- 8.14 The WMCA governance arrangements set out for the Metro Programme in the Management Case have been established since WMCA came into being in June 2016. These outline how WMCA operates, how decisions are made and the procedures to be followed in order to ensure that WMCA operates efficiently, effectively and in a transparent and accountable manner. They are in line with the requirements of the

DfT for the delivery of major capital projects to which it contributes funding. It also aligns with guidance from the Cabinet Office [WBHE/D9&10].

Delivery Team

- 8.15 The former Centro's Programme Team Structure for Metro has been in place in full since 2012 and has been continually reviewed to ensure it is fit for purpose in relation to the West Midlands Metro Expansion Programme, as described in my section 3. It has recently transitioned into the MMA programme team structure, with an experienced core team remaining in TfWM.
- 8.16 The MMA has a strong project team with a co-located team of owner, designer and contractor non-owner participant staff bringing together world-wide expertise in a truly collaborative environment, with the skills and experience to deliver all aspects of the development and delivery of this project. The MMA has a robust, programme managed, delivery focused organisation in place, supported with the correct resources, skills and leadership.
- 8.17 The strategies and plans for managing the Metro programme are set out in the Alliance Management Plan, which formed Appendix M2 to the Management Case. The plan is prepared and maintained by the MMA and sets out:
- Details of the programme
 - Budget
 - Schedule
 - Team to deliver the programme
 - Governance arrangements to be adopted
 - Processes to be followed
- 8.18 This document is owned by the Alliance Director and is managed by its custodian, the Project Controls Manager. It will be periodically updated to reflect any changes in the Programme or the processes and other information that will impact delivery. The Plans have been developed in keeping with OGC Guidance and general project management best practice within the construction industry. They address the key points raised in the DfT Guidance.
- 8.19 Throughout the development stage of the project WMCA will maintain a fully detailed working schedule for the programme implementation as an integral component of their

development planning processes. The alliance partners have also developed a detailed project schedule. Midland Metro Alliance utilises Primavera P6 integrated with WMCA's financial management package Business World to link the delivery schedule activities to expenditure and forecast costs. The schedule includes:

- Key dependencies
- Critical path
- Outputs and milestones
- Historic and forecast costs

8.20 WMCA has significant, recent and relevant experience of the delivery of major projects and programmes. It has recently completed the 1.3km BCCE which was initially opened to the Bull Street tram stop on 19th November 2015, and fully opening on 30th May 2016. This £127 million project extends from Snow Hill, running through Bull Street, Corporation Street, Stephenson Street, and terminating at Birmingham New Street.

8.21 WMCA is also currently working on the continuation of this expansion programme which is working towards retrofitting the current 21 trams with batteries, so that they can operate in catenary free areas, which are currently planned in Birmingham and Wolverhampton city centres as referred to earlier in my evidence. WMCA is also procuring additional rolling stock to prepare for the expansion of the current tram route, including this extension, reduce overcrowding and improve passenger experience.

Risk Management

8.22 A proactive risk management procedure is in operation which ensures that risks are continuously identified through use of structured workshops, risk owners are assigned, and mitigation measures developed and implemented. To monitor the effectiveness of the control measures, monthly reviews are conducted to check the status of each risk and modify the mitigation actions.

Engagement

8.23 A dedicated Engagement team is in place within the MMA to help facilitate the construction of the WBHE project by identifying key stakeholder groups and/or individuals, identifying the key messages applicable to each and proactively engaging with them using timely, consistent and relevant methods of communication in order to

establish and maintain goodwill and mutual understanding throughout the whole project life-cycle

Land Acquisition

- 8.24 WMCA sought to engage with all persons believed to have an interest in the relevant land from November 2017, via letters sent as part of the consultation and land referencing process which contained information about the WBHE. These letters invited discussions with landowners affected by the Proposed Order. These letters were in the form at Appendices 6 and 12 of the Consultation Report [WBHE/A5]. Land acquisition work is undertaken jointly by WMCA's own in-house legal team and the MMA's Head of Property, supported by external consultants and valuers via framework arrangements where necessary.
- 8.25 Where land is required, WMCA has sought to negotiate with those landowners and affected parties who have engaged with the Authority and has successfully entered into heads of terms or full legal agreements with a number of parties over the acquisition processes, such as Canal and Rivers Trust and Network Rail. Such agreements relate to a variety of issues, including compensation but also, for example, altering the Scheme's land requirements to mitigate the effects of the Scheme on landowners. Following some of these discussions, land has been reduced or removed from the TWAO, for example in relation to Jewson [OBJ 05] and Hutchinson and Holden [OBJ 08].
- 8.26 WMCA will continue to work up detailed design for the WBHE and, ultimately, will seek only to acquire such interests in the Order land as are reasonably necessary for the construction, operation and maintenance of the WBHE. However, without the Order powers, the acquisition of such interests is outside the control of WMCA. Initial consultation demonstrated that it was unlikely that all of the land and rights required would be available by negotiation and within the timescales required to achieve the scheme programme; hence WMCA must seek compulsory powers to ensure that the WBHE can be implemented within the required delivery schedule. This approach (of seeking compulsory powers in parallel with negotiations) complies with the 2018 Government Guidance [WBHE/E12].
- 8.27 Although agreement has been reached with some landowners, this has been achieved in the context of compulsory powers being sought by WMCA and negotiations have been concluded under the potential prospect of such compulsion. Without the prospect

of the Proposed Order, it is unlikely that WMCA would have achieved the agreements that it has.

8.28 WMCA therefore seeks compulsory acquisition powers in the Proposed Order to enable it to secure in a timely and efficient manner the land interests and rights which have been identified, following consultation, as being required for the construction and subsequent maintenance and operation of the WBHE.

8.29 The Proposed Order, if made, would allow for all the land required for the Scheme to be acquired in a realistic timescale and would prevent individual landowners holding up the Scheme's delivery through a refusal to sell land or to licence the use of land. The making of the Proposed Order would also ensure that no adverse restriction within land interests would prevent the construction or operation of the Scheme. In practice, in the absence of the acquisition powers to be conferred by the Proposed Order, it would be impossible to assemble all the permanent and temporary land interests required to construct and operate the Scheme within a reasonable timescale that would enable WMCA to deliver the Scheme in a timely, efficient and economical manner.

8.30 Therefore, the granting of the Proposed Order powers will provide certainty that WMCA can deliver the Scheme.

Monitoring and Evaluation

8.31 The monitoring and evaluation of the impacts of the investment are critical in assessing the actual impact of the project and as such crucial to understanding the case for future investment both locally and nationally.

8.32 A Monitoring and Evaluation Plan is being developed (based on DfT Guidance⁷).

Sustainability

8.33 The MMA has a Sustainability Management Plan which provides the overarching approach to be adopted throughout the programme wide activities as well as the general approach to the projects. Sustainability covers a wide range of aspects, some of which are managed separately within the Midland Metro Alliance; in particular

⁷ <https://www.gov.uk/government/publications/monitoring-and-evaluation-framework-for-local-authority-major-schemes>

engagement as described previously. To reflect this, topic specific strategies and plans provide more detail on controls and measures in place (e.g. Engagement Management Plan).

- 8.34 The project team will produce a Project Sustainability Plan that details how the project will contribute to the sustainability objectives for the Midland Metro Alliance as set out in the Sustainability Management Plan and how the project will manage impacts which are identified through the Environmental Impact Assessment. The Sustainability Management Plan will include the project approach to environmental legal compliance.

Business Case – Commercial Case [WBHE/D3]

- 8.35 The Commercial Case covers the procurement strategy, including the background to the procurement of the MMA, utility diversions and operator involvement in design and construction.

Infrastructure

- 8.36 As I stated in the above paragraphs, WMCA has recent experience in procurement of Midland Metro extensions with the BCCE and Fleet Replacement Programme, which included procurement of a 1.3km extension to Midland Metro, a depot extension, and a replacement tram fleet.
- 8.37 The procurement of the BCCE was undertaken via a market standard NEC design and build contract with a structured longer retention/ defects liability period to ensure the supplier delivers high quality performance. The competition saw good levels of interest from the market and Centro was able to take four contractors to the invitation to negotiate stage, thus ensuring that good value for money was obtained in the procurement.
- 8.38 The construction of the WBHE infrastructure will be delivered within the context of a number of Midland Metro extension projects being brought forward in a growing expansion programme. Following the Government's decision in 2013 to devolve major project funding for transport to Local Transport Bodies and the subsequent Growth Deal and West Midlands Devolution Deal allocations, work has been on-going to develop future routes for the Midland Metro system and funding is either in place or expected to be in place to deliver the following extensions:-
- This Wednesbury to Brierley Hill Extension,
 - Edgbaston Extension (Grand Central to Edgbaston),

- Wolverhampton City Centre Extension (Pipers Row to Railway Station),
- Birmingham Eastside Extension, and
- East Birmingham Solihull Extension.

8.39 In respect of previous projects, contractors have been procured on a project by project basis. The more positive expected funding position set out above led WMCA to reconsider its strategy relating to the preparation and tender of such projects.

8.40 This review considered a number of different contracting strategies:-

- Client design - construct only
- Design & Build
- Management Contracting
- Design Build Fund and Operate
- Prime Contracting
- Alliancing

8.41 Learning from the successful experience of clients such as Highways England, Network Rail and water companies such as Anglian Water when commissioning projects, Alliancing was found to be the most appropriate model, supporting the delivery of Value for Money through a collaborative approach. Project Alliancing was first used by BP for the North Sea Andrew Field in the 1990's, the project was delivered 6 months ahead of schedule for an actual cost £290m against an initial target of £450m.

8.42 WMCA undertook a rigorous selection process and let an alliance contract with a single contractor and design consortium for a period of up to 10 years for the Midland Metro extensions work.

8.43 In this "Midland Metro Alliance" the designer, contractor and WMCA are working as an integrated team to develop and deliver the programme under a contractual framework where their commercial interests align with actual project outcomes.

What is Alliancing?

8.44 Alliancing is a form of relationship contracting often used for complex projects or programmes which require speed of delivery and cost certainty. Alliances include the owner, designer and contractor as alliance members who collectively seek outstanding

outcomes through an integrated team, characterized by aligned goals, innovative thinking and collaborative behaviours.

- 8.45 This is reinforced through a commercial framework set up to create win-win outcomes by aligning the commercial interests of constructors and designers with the owner's project objectives, with risk collectively assumed by all participants and rewards determined by collective performance and results.

Essential Features of the Midland Metro Alliance

- 8.46 In the Alliance, WMCA, the Designer and the Contractor are working as a single integrated team to develop and deliver the programme of works collaboratively under a single Programme Alliance Agreement (PAA) with the interests of all the parties aligned. The Alliance:-

- promotes collaborative behaviours commensurate with a best for project approach;
- assumes collective ownership for performance in programme and project delivery;
- takes collective responsibility of all programme and project risks & opportunities; and
- has agreed a commercial model that provides for a Pain share and Gain share mechanism.

- 8.47 The programme is governed by the Alliance Leadership team comprising senior representation from all the Alliance members, and where all members have an equal say. Day to day management of the programme is by a seamless integrated management team where all members are assigned to the team on a best-for-project basis whilst the parties agree to resolve issues within the alliance with no recourse to litigation.

- 8.48 The remit of the Alliance is to design and deliver all Metro extensions over the first 5-year period (subject to WMCA approval of each scheme budget at key stages), with a guarantee to extend for a further 5 years subject to satisfactory performance.

Programme Alliance Agreement

- 8.49 Unlike traditional forms of construction contract which seek to defend positions, the PAA is very different insofar as it is principle based, placing obligations on the parties

to act in good faith and committing to Best for Project decision making on the basis that this will deliver the best outcome for all parties.

- 8.50 Other key features of the PAA include shared risk, no claim, no blame and creating a collaborative, self-governing environment in which a high performing, innovative team will thrive. The consequences of failure are dealt with through the commercial model. Owner's rights are reserved to exceptional circumstances i.e. changes in law, breaches in statutory duty and wilful neglect.

Commercial Model

- 8.51 The commercial model works in tandem with the PAA, linking the commercial interests of all the parties to best-for-project outcomes, encouraging all the participants to work as an integrated team to identify and mitigate / eliminate risk and innovate to achieve outstanding results. The commercial model addresses development of target costs for each project on an open book basis, compensation of the Non-Owner Participants, manages change, sharing of pain /gain, key results areas, and programme wide insurances:-

- Target costs are developed jointly on an open book basis and include reasonable estimates of the actual costs to deliver the works including owner's direct costs, design costs, construction costs, contingencies and non-owner participants' fee (overhead and profit);
- As the members collectively assume all risks, scope variations under the Alliance are limited to material change where the client has for instance requested an extra facility that could not have been contemplated at the outset;
- Sharing of pain gain ensures all parties are equitably incentivized to perform beyond the expectation of the target cost;
- Key Results Areas are developed to incentivize participant performance in areas critical to the project; and
- Project insurance is an essential element of the Alliancing form of contracting. Under Pure Alliancing, as no liability arises between the parties, normal insurances cannot be triggered and therefore cannot be called upon to protect the partners against internal claims. This is overcome by WMCA taking out an all-encompassing project insurance policy.

Key Benefits

8.52 Outstanding project outcomes achieved by past Pure Alliances include – on-time or early completion even on the most challenging projects; optimum out-turn costs; more effective stakeholder management; and potential for improved returns for non-owner participants.

8.53 Under traditional forms of contract, responsibilities and risk are allocated to different parties with commercial and/or legal consequences for the individual parties where they fail to manage their risks or properly discharge their contractual/legal obligations.

Under the alliance the participants:-

- Assume collective responsibility for delivering the project
- Take collective ownership of all risks (and opportunities) associated with the delivery of the project
- Share in the "pain" or "gain" depending on how actual project outcomes compare with the pre-agreed targets that they have jointly committed to achieve.

8.54 This provides for:-

- Active management of the project in all respects, as opposed to 'reactive' management when problems arise
- Reduced costs and project durations and improved quality of deliverables through early contractor involvement
- Continuous and maximised input from the participants
- Collaborative relationship with mutual trust and shared ownership of risks/problems through the life of a project
- Value for money developed over a series of projects with continuous improvement over time
- Single cohesive team without any of 'us and them' attitudes
- Clear understanding of the purpose/mission of the alliance

Utilities Diversions

8.55 Some existing utilities services will need to be altered, diverted or protected to facilitate the construction of the Metro in the public highway and to ensure that the utility

companies can access their plant for maintenance, renewals or alterations without the need to substantially disrupt the operational tramway.

8.56 There are three strategies that can be employed to undertake the necessary diversions:

- As part of the relevant construction package;
- By an 'Enabling Works' contractor; or
- By the utility companies' own contractors.

8.57 Experience on other schemes has shown clearly that best value will be obtained through the diversion of utilities by the utility companies' own contractors. To ensure best value, optimum programme and appropriate stakeholder communications, the Midland Metro Alliance will actively co-ordinate and manage the utility companies' programmes, in conjunction with Birmingham City Council pursuant to their statutory role as Traffic Manager and NRSWA co-ordinator and has procured an over-arching traffic management contract to support delivery in a co-ordinated manner.

8.58 The strategy is to undertake the majority of the requisite diversion works before the commencement of the Metro infrastructure works. This has both a time and cost benefit to the project and significantly de-risks the scope since the act of undertaking the diversions gives greater certainty of ground conditions and provides contractors with a 'clear site'. This approach has proved very successful on the recent BCCE, WCCE and CSQ projects with the utilities' works being delivered on time and within budget to avoid delaying the main works.

Operator Involvement in Design

8.59 Midland Metro Line 1 was procured as a concession on a turnkey Design, Build, Maintain and Operate basis. The contract reflected a Private Finance Initiative format though the majority of the finance was provided by Centro. Maintenance and Operational costs are borne by the concessionaire who also retains all fares and advertising revenues.

8.60 The 23-year Concession was awarded to Altram LRT Ltd in August 1995 and the system opened to the public in May 1999. Altram subcontracted the Design & Build and Operate & Maintain elements to a Laing/Ansaldo Joint Venture and West Midlands Travel Ltd (Trading as Travel Midland Metro) respectively. In 2005 West Midlands Travel Ltd acquired 100% control of Altram. West Midlands Travel Ltd is part of the

National Express group, and the operating arm is branded as National Express Midland Metro (NXMM).

8.61 On 17 March 2017 the WMCA Board approved a proposal to bring operation of Midland Metro back in house and this took place on 24 June 2018. Under TUPE legislation, this ensured that the highly-experienced NXMM team was retained with a clear focus on delivering this project under the direct control of WMCA. The NXMM team has been closely involved in the designs for the WBHE project.

8.62 Under the brand name West Midlands Metro, the region's expanding tram network, is now operated by Midland Metro Limited (MML). MML is a new company which, although 100% owned by the West Midlands Combined Authority, functions as a standalone business. It was awarded a 15-year operations and maintenance contract for the Metro system by the WMCA starting on 24 June 2018.

8.63 The senior management team at MML have extensive experience in the management of tramway businesses in both public and private sector.

Business Case – Financial Case [WBHE/D4]

8.64 The Financial Case covers the project costs and funding. As these are covered by the Funding Statement [WBHE/A6] I do not cover them further here.

9 Support for the Scheme

- 9.1 The scheme has received strong support both for the funding application made by WMCA to Government and for the Proposed Order.

Dudley Council

- 9.2 Dudley Council (DMBC), acting in its role as Highway Authority and Local Planning Authority has expressed strong support for the scheme throughout its development. It confirmed its formal support for the Proposed Order in a letter dated 19 January 2018 [SUPP/01].
- 9.3 DMBC continues to actively work with WMCA and the Midland Metro Alliance on the detailed design of the WBHE.

Other

- 9.4 Formal support for the WBHE has also been received in support of WMCA's funding application to Government from the BCLEP (WBHE/D39), Portersfield [WBHE/D40] and Dudley College [WBHE/D41], and in support of the Proposed Order from the Association of Black Country Local Authorities (SUPP/02) (which includes Sandwell Council), Dudley Zoological Gardens (SUPP/03) and Dudley Canal and Tunnel Trust (SUPP/04).

10 The Secretary of State's Statement of Matters

- 10.1 The Statement of Matters issued by the Secretary of State for Transport (GEN 3) sets out for the purposes of rule 7(6) of the Transport and Works (Inquiries Procedure) Rules 2004 the matters about which the Secretary of State for Transport particularly wishes to be informed for the purposes of his consideration of these applications.
- 10.2 With respect to the matters raised, these have been covered in WMCA's evidence and Order application documents as set out in Table 10.1 below.

Table 10.1 Issues Raised in Statement of Matters [GEN 3]

<u>Matter</u>	<u>Covering</u>	<u>Covered within</u>
1	Justification for the Proposed Order	The strong justification for the Proposed Order is set out in Section 5 of the WMCA Statement of Case, "The Case for the Order" [WBHE/F5]. This is also covered in section 7 of my Proof of Evidence where I explain the need for the scheme. This is further supported within the Proofs of Evidence of my colleagues Mr David Carter [APP/P2.1] in relation to the strong economic justification for the WBHE scheme and Mr Paul Ellingham [APP/P5.1] in relation to strong support for the scheme in national and local planning policy and economic policy. Section 2 of my Proof of Evidence details the strong transport policy support for the WBHE.
2	Alternatives to Compulsory Acquisition	The steps WMCA has taken to acquire by agreement and the lack of alternatives to compulsory acquisition considered by WMCA for meeting the objectives of the scheme are covered in section 8 of my Proof of Evidence and in the Proof of Evidence of my colleague Mr Bruce Fowler [APP/P6.1].
3	Benefits	The anticipated significant benefits of the scheme are covered in Section 7 of my Proof of Evidence and by my colleagues Mr David Carter and Mr

<u>Matter</u>	<u>Covering</u>	<u>Covered within</u>
		Paul Ellingham in their Proofs of Evidence [APP/P2.1 and APP/P5.1] .
4	The likely impact of the exercise of the powers	<p>The Statement of Matters [GEN 3] sets out a number of headings under which to consider the likely impact of the exercise of the powers in the proposed TWA Order on land owners, tenants, occupiers and statutory undertakers, including any adverse impact on their ability to carry on their business and undertakings effectively and safely and to comply with any statutory obligations applying to their operations. The headings are dealt with as follows:</p> <p><u>Matter 4a</u></p> <p>My colleagues Mr Ian Collins and Mr Himanshu Budhiraja deal respectively in their Proofs of Evidence [APP/P3.1 and APP/P4.1] with the limited impacts during construction and operation on access to and within the area, including the effects on local road networks, access to businesses and car parks, and access by emergency vehicles .</p> <p><u>Matter 4b</u></p> <p>My colleague Mr Ian Collins demonstrates in his Proof of Evidence that the WBHE can be constructed in such a manner as to minimise disruption to access and traffic flows.</p> <p>My colleague Mr David Carter deals with the economic impacts during construction and operation on local businesses and occupiers in his Proof of Evidence [APP/P2.1] noting that he anticipates no long-term adverse impacts of any magnitude on the ability of land owners, tenants and business and other undertaking to carry out</p>

<u>Matter</u>	<u>Covering</u>	<u>Covered within</u>
4	The likely impact of the exercise of the powers (cont.)	<p>their business effectively and safety, and WBHE delivers, once operational, increased transport accessibility, especially to Dudley Town Centre (including the Churchill Shopping Centre) and to the Merry Hill Shopping Centre.</p> <p><u>Matter 4c</u></p> <p>My colleagues Mr Ian Collins and Mr Himanshu Budhiraja deal with the impacts on members of the general public, including users of the Churchill Shopping Centre in Dudley and the Merry Hill Shopping Centre in Brierley Hill in their Proofs of Evidence [APP/P3.1 and APP/P4.1].</p> <p><u>Matter 4d</u></p> <p>My colleagues Mr Ian Collins and Mr Paul Ellingham cover the measures proposed by WMCA to mitigate any significant adverse impacts arising from the exercise of the powers in the proposed Order, and whether any such measures are appropriate and sufficient in their Proofs of Evidence [APP/P3.1 and APP/P5.1].</p> <p>My colleague Mr David Carter reviews these impacts in the context of the business case for the scheme in his Proof of Evidence [APP/P2.1].</p> <p>I explain below the position relating to environmental impact assessment of the WBHE.</p>
5	Justification of Compulsory Powers	<p>The Statement of Matters [GEN 3] sets out a number of headings under which to consider the criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the Ministry of Housing, Communities and Local Government Guidance on the “Compulsory purchase process and the</p>

<u>Matter</u>	<u>Covering</u>	<u>Covered within</u>
5	Justification of Compulsory Powers Cont.	<p>Crichel Down Rules”⁸ for the disposal of surplus land acquired by, or under the threat of, compulsion”. The headings are dealt with as follows:</p> <p><u>Matter 5a</u></p> <p>Whether there is a compelling case in the public interest to justify conferring on WCMA powers to compulsorily acquire and use land for the purposes of the scheme is covered is set out in Section 5 of the WMCA Statement of Case [WBHE/F5] , “The Case for the Order”. This is also covered in section 7 of my Proof of Evidence where I explain the need for the scheme. This is further supported within the Proofs of Evidence of my colleagues Mr David Carter [APP/P2.1] in relation to the economic justification for the WBHE scheme and Mr Paul Ellingham [APP/P5.1] in relation to support for the scheme in national and local planning policy.</p> <p><u>Matter 5b</u></p> <p>Whether the purposes for which the compulsory purchase powers are sought are sufficient to justify interfering with the human rights of those with an interest in the land affected (having regard to Article 1 of the First Protocol to the European Convention of Human Rights) is dealt with in Section 9 of the WMCA Statement of Case [WBHE/F5] and in the Proof of Evidence of my colleague Mr Bruce Fowler [APP/P6.1].</p> <p><u>Matter 5c</u></p>

⁸ <https://www.gov.uk/government/publications/compulsory-purchase-process-and-the-crichel-down-rules-guidance>

<u>Matter</u>	<u>Covering</u>	<u>Covered within</u>
		<p>Section 8 of my Proof of Evidence covers whether there are likely to be any impediments to WMCA exercising the powers contained within the Order, including the availability of funding</p> <p><u>Matter 5d</u></p> <p>My colleague Mr Ian Collins confirms that all the land and rights in land over which WMCA has applied for such powers is necessary to implement the scheme in his Proof of Evidence [APP/P3.1].</p>
6	Changes to the Proposed Order	<p>Section 11 of my Proof of Evidence covers the purpose and effect of any substantive changes proposed by WMCA to the Order since the application was made. My colleague Mr Bruce Fowler covers this issue also and confirms in his Proof of Evidence [APP/P6.1] that those whose interests are likely to be affected by such changes have been notified.</p>
7	Statutory Processes	<p>The statutory procedural requirements of the Transport and Works (Applications and Objections Procedure) Rules 2006 have been complied with as set out in Section 1 of the WMCA's Statement of Case [WBHE/F5].</p>

10.3 The Statement of Matters [GEN 3] asks in the introduction to Matter 4 that consideration be given to the likely impact of the exercise of the powers in the proposed TWA Order on land owners, tenants, occupiers and statutory undertakers, including any adverse impact on their ability to carry on their business and undertakings effectively and safely and to comply with any statutory obligations applying to their operations. These issues are covered as set out in Table 10.1 above in the specific detail stated, and in general throughout the WMCA Proofs of Evidence.

- 10.4 With respect to environmental assessment, the 2005 Order application was subject to an environmental impact assessment and accompanied by an environmental statement. WMCA has not carried out an environmental impact assessment in the context of this application, because there is no development requiring planning permission and the Order is not an “EIA Order” for the purposes of the Transport and Works Act 1992 (as amended by the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070)). The proposed Order would merely revive powers of compulsory acquisition conferred by the 2005 Order. Since it does not authorise any works and is not a project for the purposes of the EIA Directive of the European Parliament, it does not require environmental impact assessment and submission of an environmental statement. Were it possible to secure all the land required for the scheme by agreement, there would be no need for this Order or other statutory authorisation for the acquisition of land.
- 10.5 That WMCA’s position on this is correct in law and practice is demonstrated by the content of both the Transport and Works Act 1992 and the associated regulations. There is recent precedent in the making of the Network Rail (Felixstowe Branch Line Land Acquisition)(Agreements for Transfer) Order 2017 (S.I. 2017/865) where the Secretary of State stated in his decision letter [WBHE/F26] that “As the Order would not provide for any development requiring planning permission NR did not submit an environmental statement with the Order application...” It is also reflected in the Government’s guidance as set out in the Department for Transport’s Guide to TWA Procedures. I explain this in more detail below, noting that this is a matter of law in respect of which I am unqualified, and is likely to be the subject of legal submissions should they be required.
- 10.6 This is not to say that no further environmental assessment will be carried out. It is anticipated by the MMA that supplementary environmental information will be provided to the relevant local planning authority in relation to the discharge of planning conditions (in particular conditions 2 (horizontal alignment of tramway) (already the subject of an application (now granted) and updated environmental information [WBHE/B14]) and 12 (ecology surveys and mitigation)) in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
- 10.7 The Transport and Works Act 1992 states at section 13A(4), that an “EIA Order” means an order authorising works or other projects which are in a class listed in Annex I to the EIA Directive (2011/92/EU) of the European Parliament, or in a class listed in

Annex II to the EIA Directive and likely to have significant effects on the environment, and which are not exempt works (where the Secretary of State has determined that an environmental impact assessment is not required in respect of those works or projects.). The order as proposed would not authorise works and is therefore not an EIA Order for the purpose of the Transport and Works Act 1992.

- 10.8 Rule 7(1) of the Transport and Works (Applications and Objections Procedure)(England and Wales) Rules 2006 (S.I. 2006/1466) (as amended) requires submission of an environmental statement with the application “in relation to any proposed works which are to be covered by that application, if those works constitute a project which is of a type mentioned in Annex I or, subject to paragraph (2), Annex II to the Directive. (Paragraph (2) provides that no environmental statement is required where the Secretary of State has notified the applicant that it is not necessary in relation to those works.) Paragraph 1.24 of the Government’s guidance states that, if the proposals do not constitute an Annex I or Annex II project, there is no statutory requirement for an ES.
- 10.9 In this case, there are no “works” in the proposed land acquisition Order, nor is it a project for the purposes of the Directive. The EIA Directive defines the term “project” at Article 1 as the execution of construction works or of other installations or schemes or other interventions in the natural surroundings and landscape including those involved in the extraction of mineral resources. This wording does not capture, nor is it intended to capture, an order merely to facilitate land assembly and that does not seek authority for any development

11 Response to Objectors

- 11.1 I have read the objections and Statements of Case submitted by the objectors to the Proposed Order and set out in this section of my Proof of Evidence my understanding of their points of concern, providing an overview and summary of how WMCA is addressing issues raised in relation to each issue.
- 11.2 I have sought to respond to the major points raised only, and where I am silent on any minor issues that does not mean that I agree with the points raised in the objection.
- 11.3 Where objections have been withdrawn prior to the finalisation of my Proof of Evidence I cover below matters which are raised by the Secretary of State in the Statement of Matters (GEN 3), unless they are dealt with specifically by other witnesses.
- 11.4 At the Inquiry WMCA will submit a revised draft Order, Book of Reference and Plans incorporating modifications which reflect the agreements reached with objectors, including modifications which reflect agreements reached for the purchase of open space land. As noted in the WMCA's Statement of Case [WBHE/F5], paragraphs 9.12 to 9.14), and as explained by my colleague Mr Bruce Fowler in his proof of evidence [APP/P6.1] these latter agreements are necessary to avoid triggering section 12 of the Transport and Works Act 1992 which provides that an order authorising the compulsory purchase of any land forming part of a common, open space or fuel or field garden allotment will be subject to Special Parliamentary Procedure unless certain conditions are satisfied. By providing for the necessary rights and interests over the relevant land to be granted to WMCA, the agreements enable the draft Order to be modified to remove the open space land from the scope of the compulsory acquisition powers. WMCA will request that the Inspector recommends to the Secretary of State that the Order be made with those proposed modifications.

**Objection of Jewson Limited, Saint Gobain and SGBD Property Holdings
(OBJ 05)**

- 11.5 The objectors include the freeholders and leaseholders of, and were served in respect of, plots 303 and 307 in the Book of Reference. Their objection states that they also believed they have interests in plots 308, 309, 310 and 311.
- 11.6 The objectors contend that there has been no offer to acquire their land by private treaty.
- 11.7 The objectors further contend that the Proposed Order scheme does not meet the objectives of the Statement of Aims [WBHE/A4] in respect of:-
- transport policy (stating that a more comprehensive package of measures than the WBHE alone will be required to stimulate the fundamental change in the use of modes of transport desired),
 - economic policy (stating that a more comprehensive package of measures than the WBHE alone will be required to sufficiently stimulate regeneration and investment), and
 - social policy (stating that insufficient information is provided to demonstrate how the WMCA is intending to encourage the greater use of public transport).
- 11.8 The objectors also contend that there is no information to indicate what assumptions have been made in the appraisal of the high value for money of the WBHE.
- 11.9 Finally, the objectors consider that the proposed Order is an infringement of their Human Rights under Article 1 of the First protocol.

Land acquisition

- 11.10 As I state in paragraph 8.24 of this Proof of Evidence, in common with other landowners, the objectors were sent letters as part of the consultation and land referencing process which contained information about the WBHE and sought to initiate discussions with landowners affected by it. These letters were in the form at Appendices 6 and 12 of the Consultation Report [WBHE/A5]. Discussions and negotiations with landowners will continue, with a view to acquiring land by private treaty where possible, including plot 303.

- 11.11 Plot 303 is subject to outright acquisition for the purposes of the authorised works. Plot 307 is subject to temporary possession during construction. In response to this objector's concerns, WMCA has issued a Unilateral Undertaking dated 4 December 2018 [WBHE/F7] to the objectors confirming its intention to remove plot 307 from the Proposed Order, as evidenced by the amended draft Order I refer to in paragraph 11.4 of this Proof of Evidence. In addition, following extensive discussions with the objectors' agents to seek to understand their concerns WMCA has covenanted within the Deed referred to above to provide a suitable boundary fence enclosing the area of the Works if it exercises any powers under the Proposed Order in respect of plot 303.
- 11.12 The objector has not provided evidence of having property interests in plots 308, 309, 310 or 311 to the WMCA, and no such interests were ascertained or provided by the objector during the land referencing exercise undertaken ahead of the submission of the Proposed Order.

Objectives of the Scheme

- 11.13 WMCA does not accept that the WBHE does not meet the objectives described in the Statement of Aims [WBHE/A4]. Its position with regards to the scheme objectives is set out in the section 6 of this Proof of Evidence, and in regard to the particular issues raised by the objectors in the following paragraphs.
- 11.14 With regard to transport policy I set out the full and significant transport policy support for the WBHE in section 2 of my Proof of Evidence. The WBHE does indeed form part of a comprehensive programme of transport improvements, as set out by WMCA in its West Midlands Strategic Transport Plan: Movement for Growth [WBHE/E10] and its Movement for Growth: 2026 Delivery Plan for Transport [WBHE/E22]. These plans are based on making better use of existing capacity, through measures such as junction improvements, alongside large-scale investment in sustainable transport capacity and supporting operational and smaller scale measures. This approach is set out in a four-tier integrated transport network made up of national/regional, metropolitan and local tiers, all joined up by the role of ever-improving technology through "smart mobility", and includes significant other investment alongside the WBHE, such as the Dudley Interchange project and, in the longer-term, enhanced frequencies of local rail services at Dudley Port.
- 11.15 With regard to economic policy and regeneration, the independent report by Lichfield, the results of which I report in paragraph 7.22 of this Proof of Evidence

amply demonstrate the significant economic and regeneration benefits that will be delivered by the WBHE. My colleague Mr Paul Ellingham confirms in his Proof of Evidence [APP/P5.1] that the WBHE accords with, and advances the objectives of, relevant economic policies.

- 11.16 With regard to social policy and the encouragement of greater use of public transport, these are significant aims of the WMCA plans I refer to in paragraph 11.14 above. Light rail is proven to be beneficial in attracting motorists to use public transport in the UK and world-wide, as has been demonstrated since the start of operation of West Midlands Metro (14% of all trips on the initial Midland Metro route were previously undertaken by car) and as I note in paragraph 3.9 this is exceeded by the surveys of passengers following the recent extension into Birmingham city centre.

Value for Money

- 11.17 My colleague Mr David Carter in his Proof of Evidence [APP/P2.1] fully demonstrates how the appraisal of the high value for money of the WBHE has been undertaken and how the assumptions therein are compliant with Government guidelines

Human Rights

- 11.18 For the reasons set out in paragraphs 9.18 to 9.26 of the Statement of Case [WBHE/F5], WMCA does not accept that the Proposed Order would breach the Human Rights Act, and the statutory compensation code will apply where objectors have compensatable interests affected by the Proposed Order.

Objection of LCP Estates (OBJ 06)

- 11.19 L.C.P. Estates Limited (LCP) is the freehold owner and operator of the Churchill Shopping Centre in Dudley and has an interest in plots 174, 175, 179, 180, 182, 183 and 184. LCP's objection (which was restated in their Statement of Case submitted on 10 December 2018 [OBJ 06/SOC]) expresses in-principle support for the Proposed Order and recognises the benefits that the WBHE will bring to Dudley Town Centre and the wider West Midlands. LCP objected to the Proposed Order on grounds of a lack of clarity about the effects of the Proposed Order works on the operation of the shopping centre and access to/from it.
- 11.20 LCP is also concerned about the timetable for delivery of the works, location of tram stops, the availability of a hardship package for traders, whether any overhead line

equipment will be affixed to its property, any landscaping proposals and any potential impacts on its own proposals to develop land between plots 182 and 184 for residential purposes. It is also concerned about potential disturbance from physical factors arising from the development, namely noise; vibration; smell; fumes; smoke; artificial lighting; and potential discharge onto its land. Finally, the objector is concerned at the extent of compulsory powers over its property and whether it is necessary to achieve the purposes of the Proposed Order.

Impacts of the Order Works

- 11.21 The construction impacts associated with the works authorised by the 2005 Order were described and assessed in the Environmental Statement [WBHE/B9] submitted with the application for the 2005 Order.
- 11.22 Construction of the tramway will be carefully controlled, and my colleague Mr Ian Collins gives further detail of the legal regulation of the works, principally via the Code of Construction Practice Part 2, in his Proof of Evidence [APP/P3.1]. Constructors and sub-contractors will be required to comply with the Code of Construction Practice (for Part 1, see [WBHE/C1]), which includes requirements to control construction impacts. In accordance with the planning conditions. Site specific mitigation will be incorporated in Part 2 of the Code of Construction Practice, which will be developed ahead of the commencement of construction of the WBHE and approved by the local planning authority, so as to ensure adequate environmental protection during construction and to safeguard the amenity of occupiers of premises in the vicinity of the works. These requirements will be made contractually binding on all contractors responsible for implementing the WBHE.
- 11.23 Mr Collins explains how the works are likely to be undertaken so as to minimise disruption, and the MMA Engagement team as described in section 8.23 of my Proof of Evidence will liaise with landowners and frontagers throughout the period of the works to ensure that any concerns are addressed as far as possible.
- 11.24 In terms of the tramway in operation the designs will ensure that the tramway operates in a complementary and seamless manner within the urban environment, as may be seen in West Midlands Metro's operation in Birmingham city centre, in other tramway systems within the UK, and world-wide. The detailed design and operation of all traffic signal junctions will be agreed by Dudley Council in its statutory role as Traffic Manager and Local Highway Authority and will be optimised to deliver their requirements for traffic management within Dudley town centre.

Detailed Impacts on Property

- 11.25 The detailed impacts on LCP's property in response to the concerns set out in their letter of objection are responded to in my colleague Mr Ian Collins' Proof of Evidence [APP/P3.1].

Hardship Package

- 11.26 As explained in my colleague Mr Ian Collins Proof of Evidence [APP/P3.1] the manner of undertaking the works will ensure that access is available to retail units in the Churchill Shopping Centre at all times, other than limited periods outside normal trading hours in liaison with the relevant parties. No specific hardship package is required or specified by the 2005 Order. The WMCA is considering a programme-wide approach to compensation for retailers directly affected by West Midlands Metro extension works, however no decision has been taken at the time of writing this Proof of Evidence. The MMA Engagement team will work with Dudley Council to ensure that access to premises during the works is appropriately publicised.
- 11.27 Reductions in business rates during the period of the works are a matter for the Valuation Office Agency (VOA) and Dudley Council. However, WMCA is aware that retailers in Birmingham city centre applied for and received reductions in business rates during the construction of the BCCE, and WMCA would be happy if requested to discuss the WBHE works proposals with the VOA so as to explain the construction process in detail.

Extent of Compulsory Powers

- 11.28 The extent of land in which LCP has an interest that is identified in the Order for acquisition or use is that which WMCA considers reasonably necessary to enable it to implement the works authorised by the 2005 Order. My colleague Mr Ian Collins confirms in his Proof of Evidence [APP/P3.1] that the land included within the Proposed Order is the minimum reasonably necessary given the current knowledge of the scheme and the design progress. However, WMCA will continue to review these requirements as the detailed design of the scheme is continued.

Objection of Jessops Europe Ltd (OBJ 07)

- 11.29 The objector occupies a retail unit at the Merry Hill Shopping Centre and is concerned about the potential exercise of the 2005 Order works powers on land subject to permanent and temporary acquisition under the Proposed Order, comprising two roads which serve the shopping centre; namely, The Embankment

(plot 336), which is subject to outright acquisition and Central Way (plot 337)) over which WMCA seeks rights of access in common with a significant number of others.

- 11.30 The objector is seeking assurances from WMCA regarding access and egress both during and on completion of the works authorised by the 2005 Order. In its Statement of Case [OBJ O7/SOC] the objector reiterates the above concerns and also seeks assurances that it will receive compensation for business losses arising as a direct consequence of the WMCA's works, and for WMCA to reinstate and make good the roads and other Common External Areas within plots 336 and 337 on completion of the works.

Traffic and Highway Issues

- 11.31 The Proposed Order would authorise WMCA to permanently acquire The Embankment and to acquire rights over Central Way in common with the significant number of existing users.
- 11.32 Exercise of the Order powers over Central Way would not affect the objector's use or enjoyment of its existing rights under its agreement for lease of the unit within the shopping centre. In a Unilateral Undertaking dated 4 December [WBHE/F8] WMCA has covenanted that it will use reasonable endeavours to ensure that access rights over The Embankment and Central Way will continue to be available as far as is reasonably practicable. Following its temporary use for construction The Embankment will be reinstated as a two-way access road for all traffic.
- 11.33 The objector is concerned about potential impacts of the implementation of the works powers of the 2005 Order. These will be no worse than the impacts fully considered by the Inspector in the 2004 public inquiry and accepted by the Secretary of State in making the 2005 Order. As I explain in paragraph 5.12 of this Proof of Evidence the planning permission for the works powers has been implemented and therefore the necessary consent is in place to allow these powers to be exercised.
- 11.34 The extent to which The Embankment is affected by the construction and operation of the WBHE will be reduced so far as reasonably practicable subject to detailed design. This access is one of a number of routes available to the objector and its customers to gain access to and egress from the Merry Hill Shopping Centre. WMCA has been and will continue to work closely with Dudley Council and Intu to minimise disruption during construction of the WBHE. My colleague Mr Ian Collins

explains in his Proof of Evidence [APP/P3.1] the impacts of traffic management during the works, how these will be mitigated, and that therefore reasonable access will be maintained to the Merry Hill centre, particularly during peak trading times such as the pre-Christmas period when disruptive work will be suspended.

Compensation Issues

11.35 The issue of interference with private rights falling to be compensated under section 10 of the Compulsory Purchase Act 1965 is a matter of law, and I do not comment on it, other than to agree with the statement made at paragraph 18 of the objector's Statement of Case [OBJ 07/SOC] that the "calculation of the quantum of compensation is not directly relevant to a public inquiry into the justification for the use of compulsory powers." Compensation issues are not a matter for this Inquiry, however my colleague Mr Bruce Fowler explains the principles of WMCA's approach to these matters in his Proof of Evidence [APP/P6.1]. WMCA does not currently operate a "hardship package" for retailers such as those at Merry Hill outside the provisions of the Compulsory Purchase Code. However, WMCA's covenanted commitment is to use reasonable endeavours to ensure that access rights over The Embankment and Central Way will continue to be available as far as is reasonably practicable, WMCA must comply with the requirements of the Code of Construction Practice, and WMCA/MMA will work with Dudley Council and Intu to minimise disruption, particularly avoiding works in the busiest times of the retail year. WMCA therefore anticipates that the objector will not suffer loss.

11.36 In the longer term, as demonstrated by my colleague Mr David Carter in his Proof of Evidence [APP/P2.1], the WBHE will deliver additional footfall to the Merry Hill centre, providing the potential for increased value from the objector's retail premises once the WBHE scheme is in operation and for many years to come.

Construction Mitigation

11.37 In accordance with the planning conditions, site specific mitigation will be incorporated in Part 2 of the Code of Construction Practice, and approved by the local planning authority, so as to ensure adequate environmental protection during construction and to safeguard the amenity of occupiers of premises in the vicinity of the works. These requirements will be made contractually binding on contractors responsible for implementing the WBHE.

11.38 I can confirm that WMCA has committed within the Unilateral Undertaking to the objector [WBHE/F8] to reinstate and make good the roads and other Common External Areas within plots 336 and 337 on completion of the works

Objection of Tata Steel UK Ltd (OBJ 09)

11.39 Tata Steel is the lessee and occupier of plot 320. It gains access to the site over plot 325, which is owned by others. The objection is made by Tata Steel UK Ltd on behalf of its subsidiary, Round Oak Rail Limited, and is concerned with the potential construction impacts of the scheme upon Round Oak Rail Ltd.'s operations at its site forming part the Round Oak Rail Terminal in Brierley Hill.

11.40 In particular, the objection states that:

- the proposed works would impact upon the regular storage and circulation yard forming part of the demise;
- the proposed works may restrict or otherwise prohibit or delay the regular routing of goods trains and steel deliveries into the Round Oak Rail terminal;
- that different ground levels in the area to be acquired may require significant retaining works and that more land may be required to facilitate these works;
- that regular operations will be disrupted;
- that the boundary fence to the north of the site could be compromised and expose the site to vandalism and thefts; and
- that vibration during construction works may impinge upon crucial tolerances that need to be maintained for overhead cranes.

11.41 Plot 320 is subject to outright acquisition for the construction, operation and maintenance of the authorised works. As explained in further detail by my colleague Mr Ian Collins in his Proof of Evidence [APP/3.1] construction impacts will be controlled in accordance with the Code of Construction Practice. In accordance with the planning conditions, site specific mitigation will be incorporated in Part 2 of the Code of Construction Practice, and approved by the local planning authority, so as to ensure adequate environmental protection during construction and to safeguard the amenity of occupiers of premises in the vicinity of the works. These requirements will be made contractually binding on contractors responsible for implementing the WBHE.

11.42 There have been considerable discussions with the objector regarding the points of concern raised in the objection and a Unilateral Undertaking dated 4 December 2018 [WBHE/F9] WMCA covenanted that:-

- The Works will not restrict or prohibit or delay the regular routing of goods trains and steel deliveries into the Round Oak Rail Terminal as communicated by the Objector to WMCA and enjoyed by Objector as at the date of the Deed.
- The alignment of the WBHE will not cross the elevated part of the Property as is shown coloured grey on the Plan attached to the Deed.
- WMCA will not gain temporary access over the elevated part of the Property as is shown coloured grey on the Plan attached to the Deed.
- Prior to the construction of the section of WBHE that affects the Objector's access which forms part of plot 325 as described in the Book of Reference [WBHE/A8] to the Proposed Order WMCA will construct a temporary access route from Waterfront Way through plot 326, and
- The temporary access as described above will be designed to a specification that will be suitable to accommodate Heavy Good Vehicles that currently access the property.

11.43 WMCA believes that the above satisfy the objector's concerns.

Objection of Intu Properties PLC and Others (OBJ 10)

11.44 The objector is the owner of the Waterfront and Merry Hill Centre in Brierley Hill. The objection is wide-ranging but states at the outset that Intu does not object to the principle of a tram scheme serving communities around Brierley Hill and Wednesbury. The objector is the landlord of objectors 7, 11, 12, 16, 17, 20, 21 and 22.

11.45 The objection is based on grounds relating to the extent of land take, lack of negotiation to acquire land, lack of detail relating to effects on the road network, and insufficient information relating to environmental impact, mitigation measures, funding and scheme design.

Extent of landtake

- 11.46 There is clear justification for the land included in the Proposed Order. As I demonstrate in sections 4 and 7 of this Proof of Evidence, the economic and transport conditions in the Brierley Hill area are poor; there was a compelling case in the public interest for compulsory powers when the 2005 Order was made, and that case remains, as the need has increased rather than diminished over the intervening years. Subject to the outcomes of detailed design WMCA will aim to reduce the permanent landtake to the minimum required; this is expected to be less than under the 2005 Order.

Liaison and Negotiation

- 11.47 Regular meetings have been held between Intu and WMCA since 2015 and WMCA's wish to acquire the land has been made clear to Intu; Intu consistently preferred to fully understand the details of the scheme's impacts on the Merry Hill Centre, in particular in relation to traffic issues and during construction, prior to commencing discussions over land acquisition. Intu also received a copy of the letter at Appendices 6 and 12 of the Consultation Report [WBHE/A5].

Traffic Modelling

- 11.48 Traffic modelling has been undertaken in response to concerns raised by Intu during discussions with WMCA about the impacts of operation of the WBHE and further detail of this comprehensive work is provided by my colleague Mr Himanshu Budhiraja in his Proof of Evidence [APP/P4.1]. This work involved discussion and agreement of the methodology with Intu and Dudley Council at every stage and demonstrates that the road network in the vicinity of the Waterfront and Merry Hill Shopping Centre will continue to operate within capacity beyond the forecast year of 2031 including for anticipated growth.
- 11.49 The introduction of the WBHE will provide a high-capacity, high-quality, reliable public transport system to allow access for staff and customers to and from Merry Hill without the need for travel by car.

Environmental Impact

- 11.50 I set out the legal position with respect to Environmental Assessment in paragraphs 10.4 to 10.9 of my Proof of Evidence. The Proposed Order is not a development consent for the purposes of the EIA Directive and the development could proceed without further authorisation if the land was acquired by agreement. Supplemental

environmental information [WBHE/B14] has however been provided in connection with the discharge of planning condition 2 in accordance with the direction of deemed planning consent that accompanied the making of the 2005 Order. Further, in accordance with the planning conditions, site specific mitigation will be incorporated in Part 2 of the Code of Construction Practice, to be approved by the local planning authority, so as to ensure adequate environmental protection during construction and to safeguard the amenity of occupiers of premises in the vicinity of the works. These requirements will be made contractually binding on all contractors responsible for implementing the WBHE.

Funding

- 11.51 I set out in section 8 of this Proof of Evidence that the WBHE is funded by WMCA with prudent options available in the event of any shortfall.

Scheme Design

- 11.52 The scheme design will continue to evolve as detailed design is worked up and planning conditions are discharged in accordance with the deemed planning consent. Such design details as are available have been shared with Intu via presentations and exchanges of information with MMA and WMCA, and such consultation is planned to continue in the period up to the start of and throughout the construction period.

Economic Impact on the Merry Hill Shopping Centre

- 11.53 The previous owners of the Centre, Westfield, reached an agreement with the then Centro to contribute £35 million to the project, presumably as they saw that it would provide significant benefit to their prospects for continued expansion and development. That agreement came to an end before the application to refresh compulsory powers was made.
- 11.54 WMCA has been and will continue to work closely with Dudley Council and Intu to minimise disruption during construction of the WBHE. My colleague Mr Ian Collins demonstrates in his Proof of Evidence [APP/P3.1] that the construction of the WBHE will not significantly impact on the traffic routeing arrangements to and from the shopping centre and therefore WMCA contends that there will be minimal impact during construction on the economic viability of Merry Hill. My colleague Mr David Carter notes in his Proof of Evidence [APP/P2.1] that the WBHE will have a significant and positive impact of the shopping centre, considering that “*the Metro*

will increase public transport use and increase visitor throughput at the Merry Hill centre, with the modest modal shift from car to Metro has the potential to generate further benefits through reduced pressures on highway access routes and existing car parking facilities. These responses provide an opportunity for a further expansion in visitor numbers for car-bound travellers who may otherwise be put off due to congestion or car park capacity constraints.”

Objection of Waterstones Booksellers Limited (OBJ 11)

- 11.55 This objector occupies two retail units at the Merry Hill Shopping Centre in Brierley Hill and is concerned about the potential exercise of Order powers on two roads which serve the shopping centre (The Embankment (plot 336) and Central Way (plot 337)) over which it has rights of access in common with others.
- 11.56 The objector is concerned that WMCA has provided insufficient detail as to how construction impacts on Waterstones will be mitigated and that it has no legally binding commitment that there will be continued access along The Embankment. It is unclear why the extent of land within plot 336 is required and contends that insufficient attempts have been made to acquire the land by agreement.
- 11.57 The Proposed Order would authorise WMCA to permanently acquire The Embankment and to acquire rights over Central Way in common with existing users.
- 11.58 Exercise of the Proposed Order powers over Central Way would not affect the objector's use or enjoyment of its existing rights under its agreement for lease of the unit within the shopping centre. Following its temporary use for construction The Embankment will be reinstated as a two-way access road for all traffic.
- 11.59 The extent to which The Embankment is affected by the construction and operation of the WBHE will be reduced so far as reasonably practicable, subject to detailed design, but this one of a number of routes available to the objector and its customers to gain access to and egress from the Merry Hill Shopping Centre. WMCA has been and will continue to work closely with Dudley Council and Intu to minimise disruption during construction of the WBHE.
- 11.60 In accordance with the planning conditions, site specific mitigation will be incorporated in Part 2 of the Code of Construction Practice, and approved by the local planning authority, so as to ensure adequate environmental protection during construction and to safeguard the amenity of occupiers of premises in the vicinity of

the works. These requirements will be made contractually binding on all contractors responsible for implementing the WBHE.

11.61 On 4 December 2018 WMCA provided a Deed of Unilateral Undertaking to the objector [WBHE/F10], in which it covenanted to:-

- ensure that traffic flows within the vicinity of property will be maintained as far as reasonably practicable during the works;
- follow the Construction Strategy (set out in an Appendix to the Deed) as far as is reasonably practicable to ensure that the impact of construction of the WBHE on the property is minimised;
- minimise the impact to the property along The Embankment as far as is reasonably practicable confirming that other accesses are available to the Property that are not affected by the Works;
- provide information displays at the Merry Hill Centre to inform traders and visitors to keep them informed of the progress of the WBHE works and how these may affect entry and access to the Centre subject to the Centre's owner providing appropriate space for this purpose; in the event that such space is not provided WMCA will make alternative arrangements to supply such information to fulfil the same purpose as far as is reasonably practicable; and
- liaise with the owner of the Centre in respect of the following which relates to the WBHE works with a view of minimising the effect of the Works on access to the Property:
 - the Constriction Strategy;
 - a Construction Operation Management Plan; and
 - a Communication Strategy

Objection of National Grid Electricity Transmission Plc (NGET) (OBJ 13)

11.62 NGET is the freeholder of Plots 20-22, 24 and 25, 32, 35 and 39 and is the leaseholder of plots 23, 26, 27 and 326.

11.63 NGET put in a holding objection while assessing the impacts of the order on its assets. It is concerned to ensure an appropriate level of protection for its statutory undertaking and has submitted a Statement of Case [OBJ 13/SOC].

- 11.64 The assets referred to in NGET's objection as potentially affected by the scheme have been the subject of on-going dialogue between MMA and NGET, as a result of which a letter was written by NGET's Asset Protection Assistant dated 27 October 2017 confirming that although the proposal would be in close proximity to a High Voltage Transmission Overhead Line and Underground Electricity Cable NGET had no objection to the proposed tram scheme.
- 11.65 WMCA and NGET have been engaging with a view to settling terms for an agreement that would secure the withdrawal of NGET's objection. However, to date it has not been possible to secure the withdrawal of NGET's objection.
- 11.66 WMCA and NGET continue to engage with one another in relation to the design of the WBHE and will continue to do so a detailed design is worked up so as to reduce any potential impacts of the scheme on NGET's property or apparatus.
- 11.67 Schedule 10 of the 2005 Order contains protective provisions in the usual form (in accordance with the Secretary of State's model clauses for Transport and Works Act Orders as amended by later precedent) for the benefit of statutory undertakers including NGET. These provisions cover apparatus on land acquired and apparatus in stopped up streets. Insofar as these protective provisions relate to the works powers of the 2005 Order (i.e. in relation to works in stopped up streets), these protective provisions continue to have effect.

Objection of Malthurst Group of Companies (Motor Fuel Group) (OBJ 15)

- 11.68 This objection was made by the Malthurst Group of Companies on grounds that the WBHE would have an adverse impact on the Merry Hill Service Station and any other property owned by the Malthurst Group that would be directly or indirectly affected by the scheme (no details were given of what, or where, such property might be located).
- 11.69 Malthurst Group was served in respect of plot 336 (The Embankment), which is a private road. The Order would authorise WMCA to permanently acquire The Embankment and to acquire rights over Central Way in common with existing users.
- 11.70 Since the objection was lodged the property has been sold. Despite seeking confirmation of the new owner's identity and agents from Malthurst's agent, this was only provided on 6 December 2018, however WMCA is now in contact with the agent for the new owner Motor Fuel Group (MFG).

- 11.71 Plot 336 is described in the Book of Reference as including land as well as The Embankment road, footway, steps, retaining wall and advertising hoardings. It is intended that a tram stop will be constructed on land within this plot to serve the shopping centre and leisure facilities at this location. Following its temporary use for construction, The Embankment will be reinstated as a two-way access road for all traffic.
- 11.72 The extent to which The Embankment is affected by the construction of the WBHE will be reduced so far as reasonably practicable, subject to detailed design, but this one of a number of routes available to the property. WMCA has been and will continue to work closely with Dudley Council and Intu to minimise disruption during construction of the WBHE.
- 11.73 In accordance with the planning conditions, site specific mitigation will be incorporated in Part 2 of the Code of Construction Practice, and approved by the local planning authority, so as to ensure adequate environmental protection during construction and to safeguard the amenity of occupiers of premises in the vicinity of the works. These requirements will be made contractually binding on all contractors responsible for implementing the WBHE.
- 11.74 On 6 December 2018 WMCA provided a Deed of Unilateral Undertaking to the objector [WBHE/F11], in which it covenanted to:-
- maintain vehicle and pedestrian access/egress to the Merry Hill Shopping Centre in the vicinity of the works at all times during the construction of WBHE as far as is reasonably practicable. General access/egress to the Merry Hill Shopping Centre will be maintained at all times via alternative routes; if in the event access across plot 336 is temporarily interrupted WMCA will ensure that appropriate alternative access to the Merry Hill Shopping Centre will be provided at no cost to the Objector;
 - ensure diversionary routes for vehicular and pedestrian access to the Merry Hill Shopping Centre will be clearly signposted and traffic will be diverted as is required should The Embankment road be closed due to the works;
 - provide the objector with reasonable advance warning of any works considered to be disruptive to the property except any Works carried out in an emergency;

- provide the Objector with regular updates and communication of any works that are considered to reasonably impact the business of the objector at the property;
- minimise the interference to the property by way of noise, dust, vibration and other similar matters as set out in the Code of Construction Practice Part 1; and
- carry out the works causing minimum disruption as far as is reasonably practicable to the access the objector currently enjoys for the purposes of customers, staff and deliveries to the property.

11.75 With regard to the operational phase of the WBHE Traffic modelling has been undertaken in response to concerns raised by Intu during discussions with WMCA about the impacts of operation of the WBHE and further detail of this comprehensive work is provided by my colleague Mr Himanshu Budhiraja in his Proof of Evidence [APP/P4.1]. This work involved discussion and agreement of the methodology with Intu and Dudley Council at every stage and demonstrates that the road network in the vicinity of the Waterfront and Merry Hill Shopping Centre will continue to operate within capacity beyond the forecast year of 2031 including for anticipated growth. There should therefore be no impact on the objector's petrol filling station business from the WBHE in operation.

Objection of McDonalds (OBJ 20)

11.76 This objection is on behalf of McDonalds and its franchisees, Astrad Limited and AR Sirkhat. The objector occupies two units at the Merry Hill Shopping Centre and one at The Boulevard in Brierley Hill. It is concerned about the impacts of the scheme, and sought assurances regarding access over plots 336 and 337 (The Embankment and Central Way) in Brierley Hill

11.77 The Proposed Order would authorise WMCA to permanently acquire The Embankment and to acquire rights over Central Way in common with existing users.

11.78 Exercise of the Order powers over Central Way would not affect the objector's use or enjoyment of its existing rights under its agreement for lease of the unit within the shopping centre. Following its temporary use for construction The Embankment will be reinstated as a two-way access road for all traffic.

- 11.79 The extent to which The Embankment is affected by the construction and operation of the WBHE will be reduced so far as reasonably practicable, subject to detailed design, but this one of a number of routes available to the objector and its customers to gain access to and egress from the Merry Hill Shopping Centre. WMCA has been and will continue to work closely with Dudley Council and Intu to minimise disruption during construction of the WBHE.
- 11.80 In accordance with the planning conditions, site specific mitigation will be incorporated in Part 2 of the Code of Construction Practice, and approved by the local planning authority, so as to ensure adequate environmental protection during construction and to safeguard the amenity of occupiers of premises in the vicinity of the works. These requirements will be made contractually binding on all contractors responsible for implementing the WBHE.
- 11.81 On 28 November 2018 WMCA provided a Deed of Unilateral Undertaking to the objector [WBHE/F12], in which it covenanted to:-
- maintain vehicle and pedestrian access/egress to the Merry Hill Shopping Centre in the vicinity of the works at all times during the works for the WBHE as far as is reasonably practicable. General access/egress to the Merry Hill Shopping Centre to be maintained at all times via alternative routes; if in the event access across plot 336 is temporarily interrupted WMCA will ensure that appropriate alternative access to the Merry Hill Shopping Centre will be provided at no cost to the objector;
 - ensure diversionary routes for vehicular and pedestrian access to the Merry Hill Shopping Centre will be clearly signposted and traffic will be diverted as is required should The Embankment road be closed due to the works;
 - provide the objector with reasonable advance warning of any works considered to be disruptive to the objector's property except any works carried out in an emergency;
 - provide the objector with regular updates and communication of any works that are considered to reasonably impact the business of the objector at the property;
 - minimise the interference to the property by way of noise, dust, vibration and other similar matters as set out in the Code of Construction Practice Part 1; and

- carry out the works causing minimum disruption as far as is reasonably practicable to the access the objector currently enjoys for the purposes of customers, staff and deliveries to the property.

Objection of Argos Limited (OBJ 21)

- 11.82 This objector occupies a unit at the Merry Hill Shopping Centre in Brierley Hill. It is concerned about the impacts of the scheme and sought assurances regarding access over plots 336 and 337 (The Embankment and Central Way) in Brierley Hill.
- 11.83 The Proposed Order would authorise WMCA to permanently acquire The Embankment and to acquire rights over Central Way in common with existing users. Following its temporary use for construction The Embankment will be reinstated as a two-way access road for all traffic.
- 11.84 Exercise of the Order powers over Central Way would not affect the objector's use or enjoyment of its existing rights under its agreement for lease of the unit within the shopping centre.
- 11.85 The extent to which The Embankment is affected by the construction and operation of the WBHE will be reduced so far as reasonably practicable, subject to detailed design, but this one of a number of routes available to the objector and its customers to gain access to and egress from the Merry Hill Shopping Centre. WMCA has been and will continue to work closely with Dudley Council and Intu to minimise disruption during construction of the WBHE.
- 11.86 In accordance with the planning conditions, site specific mitigation will be incorporated in Part 2 of the Code of Construction Practice, and approved by the local planning authority, so as to ensure adequate environmental protection during construction and to safeguard the amenity of occupiers of premises in the vicinity of the works. These requirements will be made contractually binding on all contractors responsible for implementing the WBHE.
- 11.87 On 6 December 2018 WMCA provided a Deed of Unilateral Undertaking to the objector [WBHE/F13], in which it covenanted to:-
- maintain vehicle and pedestrian access/egress to the Merry Hill Shopping Centre in the vicinity of the works at all times during the construction of WBHE as far as is reasonably practicable. General access/egress to the Merry Hill Shopping Centre will be maintained at all times via alternative

routes; if in the event access across plot 336 is temporarily interrupted WMCA will ensure that appropriate alternative access to the Merry Hill Shopping Centre will be provided at no cost to the Objector;

- ensure diversionary routes for vehicular and pedestrian access to the Merry Hill Shopping Centre will be clearly signposted and traffic will be diverted as is required should The Embankment road be closed due to the works;
- provide the objector with reasonable advance warning of any works considered to be disruptive to the property except any Works carried out in an emergency;
- provide the Objector with regular updates and communication of any works that are considered to reasonably impact the business of the objector at the property;
- minimise the interference to the property by way of noise, dust, vibration and other similar matters as set out in the Code of Construction Practice Part 1; and
- carry out the works causing minimum disruption as far as is reasonably practicable to the access the objector currently enjoys for the purposes of customers, staff and deliveries to the property.

Objection of TJX UK (trading as TK Maxx) (OBJ/22)

- 11.88 This objector occupies a unit at the Merry Hill Shopping Centre in Brierley Hill. It is concerned about the impacts of the scheme and sought assurances regarding access over plots 336 and 337 (The Embankment and Central Way) in Brierley Hill.
- 11.89 The Proposed Order would authorise WMCA to permanently acquire The Embankment and to acquire rights over Central Way in common with existing users.
- 11.90 Exercise of the Order powers over Central Way would not affect the objector's use or enjoyment of its existing rights under its agreement for lease of the unit within the shopping centre. Following its temporary use for construction The Embankment will be reinstated as a two-way access road for all traffic.
- 11.91 The extent to which The Embankment is affected by the construction and operation of the WBHE will be reduced so far as reasonably practicable, subject to detailed design, but this one of a number of routes available to the objector and its customers to gain access to and egress from the Merry Hill Shopping Centre.

WMCA has been and will continue to work closely with Dudley Council and Intu to minimise disruption during construction of the WBHE.

- 11.92 In accordance with the planning conditions, site specific mitigation will be incorporated in Part 2 of the Code of Construction Practice, and approved by the local planning authority, so as to ensure adequate environmental protection during construction and to safeguard the amenity of occupiers of premises in the vicinity of the works. These requirements will be made contractually binding on all contractors responsible for implementing the WBHE.
- 11.93 On 6 December 2018 WMCA provided a Deed of Unilateral Undertaking to the objector [WBHE/F14], in which it covenanted to:-
- maintain vehicle and pedestrian access/egress to the Merry Hill Shopping Centre in the vicinity of the works at all times during the construction of WBHE as far as is reasonably practicable. General access/egress to the Merry Hill Shopping Centre will be maintained at all times via alternative routes; if in the event access across plot 336 is temporarily interrupted WMCA will ensure that appropriate alternative access to the Merry Hill Shopping Centre will be provided at no cost to the Objector;
 - ensure diversionary routes for vehicular and pedestrian access to the Merry Hill Shopping Centre will be clearly signposted and traffic will be diverted as is required should The Embankment road be closed due to the works;
 - provide the objector with reasonable advance warning of any works considered to be disruptive to the property except any Works carried out in an emergency;
 - provide the Objector with regular updates and communication of any works that are considered to reasonably impact the business of the objector at the property;
 - minimise the interference to the property by way of noise, dust, vibration and other similar matters as set out in the Code of Construction Practice Part 1; and
 - carry out the works causing minimum disruption as far as is reasonably practicable to the access the objector currently enjoys for the purposes of customers, staff and deliveries to the property.

12 Summary and Conclusions**Strategic Context**

- 12.1 The WBHE is entirely in line with National, Regional and Local Planning, Transport and Economic Policies, being specifically supported by the in Policy TRAN1 (Priorities for the Development of the Transport Network) of the Black Country Core Strategy [WBHE/E23].

The Existing Tram System

- 12.2 The Midland Metro tram network is a successful, popular and expanding system currently linking Wolverhampton and Birmingham city centres. Funding is in place to continue the momentum of expansion created by the extension in 2016 to Grand Central, which saw an increase in patronage from 5 to 7.5 million passengers per annum. A ten-year delivery programme is planned to deliver further extensions to Edgbaston, Wolverhampton Railway Station, Eastside, Brierley Hill and Birmingham Airport as well as the WBHE.

Existing Economic Conditions and Transport Provision in the WBHE Corridor

- 12.3 Although at the core of the development and expansion of the Industrial Revolution the decline of industry has left its mark in the Black Country, with the closure of mines, steelworks, refineries and factories over several decades, leading to an increase in social deprivation and unemployment, which are high compared with national benchmarks. There is considerable scope for development to take place to overcome these difficulties, but major employment and residential developments, both in the WBHE corridor and that facilitated by the proposed HS2, need to be highly accessible by rapid transit in order to maximise their potential.
- 12.4 Public Transport within this part of the Black Country is a key constraint. With no existing direct rail link from Brierley Hill or Dudley, bus and car usage are higher than the national average and the area has not shared the benefits of the significant growth in rail patronage over recent years in the West Midlands. With this high proportion of car usage, road congestion is a major issue.

Evolution of the Scheme

- 12.5 The scheme has been the subject of lengthy development and full consideration has been given the views of the public and frontagers through extensive public

consultation over many years. Transport and Works Act powers were sought in 2003 and granted in 2005 and the works powers and outline planning permission have been implemented. Having obtained Government funding for a large proportion of the project costs, WMCA is now seeking to refresh the Compulsory Purchase powers through the Proposed Order in order to implement the project.

The Scheme Proposals

- 12.6 The WBHE has been developed to address this area's deficiencies in the Black Country's public transport offer. It is an 11km extension of the existing Metro network from Line 1 at Great Western Street, running along the former South Staffordshire Railway corridor to Castle Hill, Dudley, where it will run on-street to serve Dudley town centre, linking with buses at Dudley Interchange and other locations, and rail at Dudley Port.
- 12.7 Re-joining the former railway corridor near Cinder Bank it will run to Merry Hill, leaving the railway corridor at Canal Street to serve the Waterfront and Merry Hill Shopping Centre before terminating in Little Cottage Street in Brierley Hill town centre.
- 12.8 It will connect Dudley and Brierley Hill to the proposed HS2 Curzon Street station, to the wider Birmingham City Centre area and to the Black Country strategic centres of Wolverhampton and West Bromwich by linking to the expanding Midland Metro network.

Need for the Scheme and its Benefits

- 12.9 The WBHE will stimulate regeneration in the corridor and provide a vital and reliable link to and from central Birmingham and the HS2 terminus at Curzon Street, as well as the Black Country strategic centres of Wolverhampton and West Bromwich. The scheme delivers significant transport benefits and when appraised in accordance with the Department for Transport's assessment methodology delivers a Net Present Value of £275 million with a benefit to cost ratio of 2.27:1, as set out in the Economic Case [WBHE/D7].
- 12.10 A report by independent consultants Lichfield [WBHE/D28] concluded that the WBHE would significantly accelerate the annual delivery of new homes and commercial floorspace leading to more jobs and increasing economic output. It would also increase both council tax and business rates receipts.

- 12.11 The WBHE will significantly reduce journey times and enhance reliability of journey times by public transport between Dudley and Brierley Hill and central Birmingham and the Black Country strategic centres of Wolverhampton and West Bromwich.

Delivery

- 12.12 The Funding Statement [WBHE/A6] describes WMCA's proposals for funding the costs of implementing the WBHE and estimates the outturn cost for the WBHE, including forecast inflation, to be £343.6 million. This assumes construction of the WBHE is completed, in its entirety, by October 2023. Funding is in place for the project, including provision for any increased costs if they arise.
- 12.13 Funding of £250 million from the new Transforming Cities Fund was allocated to WMCA by the Government on 20 November 2017, including the Government funding requested for the WBHE. This was confirmed within the second West Midlands Devolution Deal announced on 23 November [WBHE/D2]. The WMCA Board approved the allocation of £207 million of this funding to the WBHE project on 8 December 2017 [WBHE/B15].
- 12.14 BCLEP funding of £400,000 has already been provided and expended on early stage scheme development.
- 12.15 A WMCA contribution of £103.0m is funded as part of the HS2 Connectivity Package [WBHE/E19].
- 12.16 The £33.2 million of "Other Funding" required is expected to be provided by third party funding. Funding contributions are being sought from a number of third parties.
- 12.17 Should third party funding not fully meet expectations, or costs rise above those in the Funding Statement [WBHE/A6], WMCA would utilise prudential borrowing, funded from the West Midlands Metro cash flows.
- 12.18 WMCA has procured the Midland Metro Alliance and therefore a strong project team, with a co-located team of owner, designer and contractor non-owner participant staff, bringing together world-wide expertise in a truly collaborative environment and with the skills and experience necessary, stands ready to deliver all aspects of the project. The Midland Metro Alliance has a robust, programme managed, delivery focused organisation in place, supported with the correct resources, skills and leadership.

- 12.19 A "third-generation" tram fleet will be required to be procured to serve the Eastside, Wednesbury to Brierley Hill and other West Midlands Metro extensions. This procurement is now in progress as part of the schedule for the project/programme, with tram supply options within an overall contract being timed to supply tested and commissioned trams in time to undertake testing and commissioning of this extension. WMCA has used the "second-generation" tram procurement documentation, incorporating lessons learned from that procurement, to develop the contract, tender documents and specification for the new contract.

Support for the Scheme

- 12.20 Support has been received in respect of WMCA's application for Government funding from the Black Country Local Economic Partnership [WBHE/D39], local developers Portersfield [WBHE/D40] and Dudley College [WBHE/D41], and for the Proposed Order from Dudley Council [WBHE/F1], the Association of Black Country Local Authorities [WBHE/F2], Dudley Zoological Gardens [WBHE/F3] and Dudley Canal and Tunnel Trust [WBHE/F4].

Statement of Matters

- 12.21 The issues raised in the Secretary of State's Statement of Matters [GEN 3] have been covered within WMCA's witnesses Proofs of Evidence.

Response to Objectors

- 12.22 At the time of writing this Proof of Evidence there are 11 objectors to the order remaining. A summary of WMCA's response to their objections is set out in the paragraphs below.

Objection of Jewson Limited, Saint Gobain and SGBD Property Holdings (OBJ 05)

- 12.23 WMCA is no longer seeking to justify the exercise of compulsory powers over plot 307.
- 12.24 WMCA has continued to negotiate with OBJ 05 and has offered assurances in the form of a unilateral deed of undertaking, covenanting to remove Plot 307 from the Proposed Order and to provide a suitable boundary fence enclosing the area of the works if it exercises any powers in respect of Plot 303, with a view to securing the withdrawal of the objection.

12.25 The objector raised a large number of wider issues in the letter of objection and these are responded to in detail in Section 11 of my main Proof of Evidence [APP/P1.1].

Objection of LCP Estates (OBJ/6)

12.26 LCP Estates supports the Proposed Order in principle and recognises the benefits that the WBHE will bring to Dudley Town Centre and the wider West Midlands. LCP objected to the Proposed Order on grounds of a lack of clarity about the effects of the Proposed Order works on the operation of the shopping centre and access to/from it.

12.27 LCP is also concerned about the timetable for delivery of the works, location of tram stops, the availability of a hardship package for traders, whether any overhead line equipment will be affixed to its property, any landscaping proposals, any potential impacts on its own proposals to develop land between plots 182 and 184 for residential purposes, and potential disturbance from physical factors arising from the development. Finally, the objector is concerned at the extent of compulsory powers over its property and whether it is necessary to achieve the purposes of the Proposed Order. These points are responded to in detail in Section 11 of my main Proof of Evidence [APP/P1.1]. The WMCA is considering a programme-wide approach to compensation for retailers affected directly by West Midlands Metro extension works, however no decision has been taken at the time of writing this Proof of Evidence.

12.28 WMCA and LCP are currently working together to reach an agreement that will address LCP's concerns. It is expected at the time of writing this Proof of Evidence that once that agreement has been completed, LCP will withdraw its objection.

Objection of Jessops Europe Ltd (OBJ/7)

12.29 The objector occupies a retail unit at the Merry Hill Shopping Centre and is concerned about the potential exercise of the 2005 Order Works powers on land subject to permanent and temporary acquisition via the Proposed Order powers on two roads which serve the shopping centre, The Embankment (plot 336) and Central Way (plot 337) over which it has rights of access in common with a significant number of others.

- 12.30 The objector is seeking assurances from WMCA regarding access and egress both during and on completion of the works authorised by the 2005 Order. In its Statement of Case [OBJ O7/SOC] the objector reiterates the above concerns and also seeks assurances that it will receive compensation for business losses arising as a direct consequence of the WMCA's works, and for WMCA to reinstate and make good the roads and other Common External Areas within plots 336 and 337 on completion of the works. I respond to these points in detail in Section 11 of my main Proof of Evidence [APP/P1.1]. Compensation issues are not a matter for this Inquiry, however my colleague Mr Bruce Fowler explains the principles of WMCA's approach to these matters in his Proof of Evidence [APP/P6.1]. WMCA does not currently operate a "hardship package" for retailers such as those at Merry Hill outside the provisions of the Compulsory Purchase Code.
- 12.31 WMCA has continued to negotiate with Jessops Europe Limited and has provided assurances to this objector in the form of a unilateral deed of undertaking with a view to securing the withdrawal of the objection.

Objection of Tata Steel UK Ltd (OBJ/9)

- 12.32 Tata Steel is the lessee and occupier of plot 320. It gains access to the site over plot 325, which is owned by others. The objection is made by Tata Steel UK Ltd on behalf of its subsidiary, Round Oak Rail Limited, and is concerned with the potential construction impacts of the scheme upon Round Oak Rail Ltd.'s operations at its site forming part the Round Oak Rail Terminal in Brierley Hill.
- 12.33 In particular, the objection states concerns over works impacts, routeing of goods trains and steel deliveries, retaining structures, disruption of operations, boundary fencing and vibration
- 12.34 There have been considerable discussions with the objector regarding the points of concern raised in the objection and a Unilateral Undertaking dated 4 December 2018 [WBHE/F9] WMCA covenanted that:-
- The Works will not restrict or prohibit or delay the regular routing of goods trains and steel deliveries into the Round Oak Rail Terminal as communicated by the Objector to WMCA and enjoyed by Objector as at the date of the Deed.

- The alignment of the WBHE will not cross the elevated part of the Property as is shown coloured grey on the Plan attached to the Deed.
- WMCA will not gain temporary access over the elevated part of the Property as is shown coloured grey on the Plan attached to the Deed.
- Prior to the construction of the section of WBHE that affects the Objector's access which forms part of plot 325 as described in the Book of Reference [WBHE/A8] to the Proposed Order WMCA will construct a temporary access route from Waterfront Way through plot 326, and
- The temporary access as described above will be designed to a specification that will be suitable to accommodate Heavy Good Vehicles that currently access the property.

12.35 WMCA believes that the above satisfy the objector's concerns.

Objection of Intu Properties PLC and Others (OBJ/10)

12.36 The objector is the owner of the Waterfront and Merry Hill Centre in Brierley Hill. The objection is wide-ranging but states at the outset that Intu does not object to the principle of a tram scheme serving communities around Brierley Hill and Wednesbury. The objector is the landlord of objectors 7, 11, 12, 16, 17, 20, 21 and 22.

12.37 The objection is based on grounds relating to the extent of land take, lack of negotiation to acquire land, lack of detail relating to effects on the road network, and insufficient information relating to environmental impact, mitigation measures, funding and scheme design. . These points are responded to in detail in Section 11 of my main Proof of Evidence [APP/P1.1].

12.38 The parties have undertaken many meetings and are continuing to work together to settle the terms of a deed of agreement by deed to secure the withdrawal of Intu's objection. It is anticipated at the time of writing this Proof of Evidence that it will be possible to secure a mutually acceptable agreement and that, once this has been completed, Intu will withdraw its objection.

Objection of Waterstones Booksellers Limited (OBJ 11).

12.39 This objector occupies two retail units at the Merry Hill Shopping Centre in Brierley Hill and is concerned about the potential exercise of Order powers on two roads

which serve the shopping centre (The Embankment (plot 336) and Central Way (plot 337)) over which it has rights of access in common with others.

12.40 The objector is concerned that WMCA has provided insufficient detail as to how construction impacts on Waterstones will be mitigated and that it has no legally binding commitment that there will be continued access along The Embankment. It is unclear why the extent of land within plot 336 is required and contends that insufficient attempts have been made to acquire the land by agreement.

12.41 WMCA has continued to negotiate with Waterstones Booksellers Ltd and has provided assurances in the form of a unilateral deed of undertaking with a view to securing the withdrawal of this objection in which it covenanted to:-

- ensure that traffic flows within the vicinity of property will be maintained as far as reasonably practicable during the works;
- follow the Construction Strategy (set out in an Appendix to the Deed) as far as is reasonably practicable to ensure that the impact of construction of the WBHE on the property is minimised;
- minimise the impact to the property along The Embankment as far as is reasonably practicable confirming that other accesses are available to the Property that are not affected by the Works;
- provide information displays at the Merry Hill Centre to inform traders and visitors to keep them informed of the progress of the WBHE works and how these may affect entry and access to the Centre subject to the Centre's owner providing appropriate space for this purpose; in the event that such space is not provided WMCA will make alternative arrangements to supply such information to fulfil the same purpose as far as is reasonably practicable; and
- liaise with the owner of the Centre in respect of the following which relates to the WBHE works with a view of minimising the effect of the Works on access to the Property:
 - the Constriction Strategy;
 - a Construction Operation Management Plan; and
 - a Communication Strategy

Objection of National Grid Electricity Transmission Plc (NGET) (OBJ 13)

- 12.42 NGET is the freeholder of Plots 20-22, 24 and 25, 32, 35 and 39 and is the leaseholder of plots 23, 26, 27 and 326.
- 12.43 NGET put in a holding objection while assessing the impacts of the order on its assets. It is concerned to ensure an appropriate level of protection for its statutory undertaking and has submitted a Statement of Case [OBJ 13/SOC].
- 12.44 WMCA and NGET have been engaging with a view to settling terms for an agreement that would secure the withdrawal of NGET's objection. However, to date it has not been possible to secure the withdrawal of NGET's objection.
- 12.45 WMCA and NGET continue to engage with one another in relation to the design of the WBHE and will continue to do so a detailed design is worked up so as to reduce any potential impacts of the scheme on NGET's property or apparatus.
- 12.46 Schedule 10 of the 2005 Order contains protective provisions in the usual form (in accordance with the Secretary of State's model clauses for Transport and Works Act Orders as amended by later precedent) for the benefit of statutory undertakers including NGET. These provisions cover apparatus on land acquired and apparatus in stopped up streets. Insofar as these protective provisions relate to the works powers of the 2005 Order (i.e. in relation to works in stopped up streets), these protective provisions continue to have effect.

Objection of Malthurst Group of Companies (Motor Fuel Group) (OBJ 15)

- 12.47 This objection was made by the Malthurst Group of Companies on grounds that the WBHE would have an adverse impact on the Merry Hill Service Station and any other property owned by the Malthurst Group that would be directly or indirectly affected by the scheme (no details were given of what, or where, such property might be located).
- 12.48 Malthurst Group was served in respect of plot 336 (The Embankment), which is a private road. The Order would authorise WMCA to permanently acquire The Embankment and to acquire rights over Central Way in common with existing users.
- 12.49 Since the objection was lodged the property has been sold. Despite seeking confirmation of the new owner's identity and agents from Malthurst's agent, this was

only provided on 6 December 2018, however WMCA is now in contact with the agent for the new owner Motor Fuel Group (MFG).

12.50 On 6 December 2018 WMCA provided a Deed of Unilateral Undertaking to the objector [WBHE/F11], in which it covenanted to:-

- maintain vehicle and pedestrian access/egress to the Merry Hill Shopping Centre in the vicinity of the works at all times during the construction of WBHE as far as is reasonably practicable. General access/egress to the Merry Hill Shopping Centre will be maintained at all times via alternative routes; if in the event access across plot 336 is temporarily interrupted WMCA will ensure that appropriate alternative access to the Merry Hill Shopping Centre will be provided at no cost to the Objector;
- ensure diversionary routes for vehicular and pedestrian access to the Merry Hill Shopping Centre will be clearly signposted and traffic will be diverted as is required should The Embankment road be closed due to the works;
- provide the objector with reasonable advance warning of any works considered to be disruptive to the property except any Works carried out in an emergency;
- provide the Objector with regular updates and communication of any works that are considered to reasonably impact the business of the objector at the property;
- minimise the interference to the property by way of noise, dust, vibration and other similar matters as set out in the Code of Construction Practice Part 1; and
- carry out the works causing minimum disruption as far as is reasonably practicable to the access the objector currently enjoys for the purposes of customers, staff and deliveries to the property.

12.51 There should be no impact on the objector's petrol filling station business from the WBHE in operation.

Objection of McDonalds (OBJ 20)

12.52 This objection is on behalf of McDonalds and its franchisees, Astrad Limited and AR Sirkhat. The objector occupies two units at the Merry Hill Shopping Centre and one at The Boulevard in Brierley Hill. It is concerned about the impacts of the scheme

and sought assurances regarding access over plots 336 and 337 (The Embankment and Central Way) in Brierley Hill.

12.53 WMCA has continued to negotiate with the objector and on 28 November 2018 WMCA provided a Deed of Unilateral Undertaking to the objector [WBHE/F12], in which it covenanted to:-

- maintain vehicle and pedestrian access/egress to the Merry Hill Shopping Centre in the vicinity of the works at all times during the works for the WBHE as far as is reasonably practicable. General access/egress to the Merry Hill Shopping Centre to be maintained at all times via alternative routes; if in the event access across plot 336 is temporarily interrupted WMCA will ensure that appropriate alternative access to the Merry Hill Shopping Centre will be provided at no cost to the objector;
- ensure diversionary routes for vehicular and pedestrian access to the Merry Hill Shopping Centre will be clearly signposted and traffic will be diverted as is required should The Embankment road be closed due to the works;
- provide the objector with reasonable advance warning of any works considered to be disruptive to the objector's property except any works carried out in an emergency;
- provide the objector with regular updates and communication of any works that are considered to reasonably impact the business of the objector at the property;
- minimise the interference to the property by way of noise, dust, vibration and other similar matters as set out in the Code of Construction Practice Part 1; and
- carry out the works causing minimum disruption as far as is reasonably practicable to the access the objector currently enjoys for the purposes of customers, staff and deliveries to the property.

Objection of Argos Limited (OBJ 21)

12.54 This objector occupies a unit at the Merry Hill Shopping Centre in Brierley Hill. It is concerned about the impacts of the scheme, and sought assurances regarding access over plots 336 and 337 (The Embankment and Central Way) in Brierley Hill

12.55 WMCA has continued to negotiate with Argos Ltd and has provided assurances in the form of a unilateral deed of undertaking in which it covenanted to:-

- maintain vehicle and pedestrian access/egress to the Merry Hill Shopping Centre in the vicinity of the works at all times during the construction of WBHE as far as is reasonably practicable. General access/egress to the Merry Hill Shopping Centre will be maintained at all times via alternative routes; if in the event access across plot 336 is temporarily interrupted WMCA will ensure that appropriate alternative access to the Merry Hill Shopping Centre will be provided at no cost to the Objector;
- ensure diversionary routes for vehicular and pedestrian access to the Merry Hill Shopping Centre will be clearly signposted and traffic will be diverted as is required should The Embankment road be closed due to the works;
- provide the objector with reasonable advance warning of any works considered to be disruptive to the property except any Works carried out in an emergency;
- provide the Objector with regular updates and communication of any works that are considered to reasonably impact the business of the objector at the property;
- minimise the interference to the property by way of noise, dust, vibration and other similar matters as set out in the Code of Construction Practice Part 1; and
- carry out the works causing minimum disruption as far as is reasonably practicable to the access the objector currently enjoys for the purposes of customers, staff and deliveries to the property.

Objection of TJX UK (trading as TK Maxx) (OBJ 22)

12.56 This objector occupies a unit at the Merry Hill Shopping Centre in Brierley Hill. It is concerned about the impacts of the scheme and sought assurances regarding access over plots 336 and 337 (The Embankment and Central Way) in Brierley Hill.

12.57 WMCA has continued to negotiate with TK Maxx and has provided assurances in the form of a unilateral deed of undertaking in which it covenanted to:-

- maintain vehicle and pedestrian access/egress to the Merry Hill Shopping Centre in the vicinity of the works at all times during the construction of

WBHE as far as is reasonably practicable. General access/egress to the Merry Hill Shopping Centre will be maintained at all times via alternative routes; if in the event access across plot 336 is temporarily interrupted WMCA will ensure that appropriate alternative access to the Merry Hill Shopping Centre will be provided at no cost to the Objector;

- ensure diversionary routes for vehicular and pedestrian access to the Merry Hill Shopping Centre will be clearly signposted and traffic will be diverted as is required should The Embankment road be closed due to the works;
- provide the objector with reasonable advance warning of any works considered to be disruptive to the property except any Works carried out in an emergency;
- provide the Objector with regular updates and communication of any works that are considered to reasonably impact the business of the objector at the property;
- minimise the interference to the property by way of noise, dust, vibration and other similar matters as set out in the Code of Construction Practice Part 1; and
- carry out the works causing minimum disruption as far as is reasonably practicable to the access the objector currently enjoys for the purposes of customers, staff and deliveries to the property.

Conclusion

12.58 The need for the land and rights proposed to be acquired has been fully justified.

12.59 Funding is available and the project is ready to proceed, and I urge the Inspector to recommend the powers applied for.

13 List of Appendices

Paragraph Ref	Appendix	Description
2.10	1	National Infrastructure Delivery Plan 2016 -2021: Map 13.B: Regional Projects Map
3.9	2	May 2017 Metro User Profile Survey Executive Summary
4.8	3	Black Country Local Economic Partnership's Economic Intelligence Unit: Indices of Deprivation Dataset
4.14	4	Local Partnerships Dudley Council report
6.9	5	2018 National Rail Passenger Survey – Overall Satisfaction with the Journey: Individual Train Company Results
6.9	6	Autumn 2017 Bus Passenger Survey – Overall Satisfaction with the Bus Journey: Authority Areas in England
8.8	7	Financial Monitoring Report to the WMCA Board at its meeting of 9 November 2018
8.8	8	Transforming Cities Fund Report to the WMCA Board at its meeting of 9 November 2018