

Transport and Works Act 1992

Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 - Rule 10(6)

THE MIDLAND METRO (BIRMINGHAM EASTSIDE EXTENSION) ORDER

REQUEST FOR DIRECTION UNDER SECTION 90(2A) OF THE TOWN AND COUNTRY PLANNING ACT 1990

1. West Midlands Combined Authority hereby requests, pursuant to rule 10(6) of the above mentioned Rules, a direction from the Secretary of State under section 90(2A) of the Town and Country Planning Act 1990 that planning permission, so far as it is required, be deemed to be granted for the development provided for in the proposed Order within the various limits provided for in the draft Order and the accompanying composite works and land plans and sections.
2. The proposed Order authorises West Midlands Combined Authority to construct and operate an extension to the Midland Metro tramway in the city of Birmingham. The proposed extension would join the existing tramway at the junction of Bull Street and Corporation Street running southeast along Lower Bull Street into Albert Street. The route then crosses Moor Street Queensway continuing northeast across land forming part of Eastside City Park to connect with the proposed HS2 Curzon Street Station then runs south along New Canal Street which continues into Meriden Street to its junction with Digbeth. The route then turns eastwards on to Digbeth, continuing to High Street Deritend where it will run in the centre of the carriageway and terminate on High Street Deritend at a stop located between Rea Street and Floodgate Street. The track will be constructed as far as Gibb Street to allow for a tram turnback and lay over facility and highway works will continue on High Street Deritend to a location near to the junction with Adderley Street. The proposed Order also contains powers for the compulsory acquisition of land and rights over land, the temporary use of land, the stopping up of streets, street works and ancillary works.
3. The applicant's interest in the proposed development is as prospective purchasers of relevant interests and as owner of the existing Midland Metro system with which it connects.
4. Notice on property owners and occupiers affected by the proposed development will be given by way of service of notices under rule 15 of the above-mentioned rules and the other publicity required by those rules.
5. The following aspects of the proposals contained in the draft Order in particular are or may be development requiring planning permission under section 57(1) of the Town and Country Planning Act 1990:

| Proposals | Draft Order |
|-------------------------------------|--|
| The scheduled works | Article 6 and Schedule 1. |
| Miscellaneous ancillary works | Articles 6, 19, 21 and 22. |
| Highway alteration and improvements | Articles 6, 9 to 14 and 16, and Schedules 2, 3 and 4. |
| Changes of use | Articles 6, 27, 30, 32 to 35, and Schedules 1, 2, 5 and 7. |

6. Further particulars of items currently identified as forming elements or possible elements of development proposed are contained in Schedule 1 to this request.
7. The direction sought is one of deemed planning permission to be granted for the whole development and for each element of it and, in response to rule 10(6)(c) of the above-mentioned rules, with aspects including layout, scale, appearance, access and landscaping being reserved for subsequent approval by the local planning authority to the extent and in the manner set out in conditions to the direction. Attached as Schedule 2 to this request in response to rule 10(6)(b) of the above-mentioned rules are draft conditions which the applicant currently wishes to propose.
8. As well as the two schedules referred to above and the Environmental Statement and other documents which accompany the associated application for a Transport and Works Order, this request is accompanied by planning direction drawings showing some of the elements of development in further detail - these are for illustrative purposes only except to the extent referred to otherwise in the draft conditions contained in Schedule 2.

Signed.....

Peter Adams
Head of Metro Development
West Midlands Combined Authority

Dated: 4 October 2016

SCHEDULE 1

ELEMENTS OR POSSIBLE ELEMENTS OF DEVELOPMENT

In the city of Birmingham:

1. Delta junction with Birmingham City Centre Extension and Upper Bull Street

- (a) Construction of a street running tramway passing along Bull Street from the junction with Corporation Street up to and including the junction with Dale End, and from Corporation Street into Bull Street, connecting to the existing tramway authorised by the Midland Metro (Birmingham City Centre Extension) Order 2005 including the installation of associated trackwork, switches and crossings, plant, electrical and mechanical equipment, building fixings for overhead line equipment and other operations necessary or expedient for the development in addition to those specifically listed below;
- (b) Construction of a new retaining wall and infilling ramp at Corporation Street and narrowing of footways on Bull Street to accommodate the tramway and retain the existing cycle lane;
- (c) Construction of a below ground chamber on the corner of Corporation Street and Bull Street to act as a traction power Track Paralleling Hut;
- (d) Provision of and alteration of existing building fixings, to support overhead line equipment, on selected suitable buildings fronting the tramway on Bull Street and Corporation Street;
- (e) Miscellaneous highway operations including the removal of bollards, kerbing, drainage and ducting, traffic signals, lighting, traffic signs, street furniture and road markings required for implementation. These include modifications to the existing signals at the junction of Bull Street and Corporation Street to facilitate improved pedestrian movement; and
- (f) Temporary works for the purposes of carrying out the development, including the formation of construction laydown areas and working sites the provision of site offices, welfare facilities, storage areas and the erection of temporary structures including fencing and lighting.

2. Junction of Dale End and Lower Bull Street to Albert Street

- (a) Construction of a street running tramway on land currently occupied by retail and commercial premises at 1-7 Kings Parade and continuing along New Meeting Street and Albert Street up to the junction with Moor Street Queensway including the installation of associated trackwork, plant, electrical and mechanical equipment, building fixings for overhead line equipment and other operations necessary or expedient for the development in addition to those specifically listed below;
- (b) The construction of platforms and erection of shelters and associated street furniture to form a tramstop close to Albert Street;
- (c) Demolition of properties 1-7 Kings Parade and the making good of buildings and land;
- (d) Environmental works to mitigate the impacts of the development, including the laying out of hard and soft landscaping on land adjacent to Dale End and Albert Street;

- (e) Provision of building fixings to support overhead line equipment on selected suitable buildings fronting the tramway on Bull Street, New Meeting Street and Albert Street;
- (f) Laying out of bus stop laybys and erection of bus shelters adjacent to the tramway and relocation of taxi and disabled parking bays from Dale End, Albert Street and High Street to Dale End and New Meeting Street;
- (g) Miscellaneous highway operations including the removal of bollards, kerbing, drainage and ducting, traffic signals, lighting, traffic signs, street furniture and road markings required for implementation. These include modifying the junction arrangements at Bull Street and Dale End to enable signalisation of the highway; and
- (h) Temporary works for the purposes of carrying out the development including the formation of construction laydown areas and working sites, the provision of site offices, welfare facilities, storage areas and the erection of temporary structures including fencing and lighting.

3. Junction at Moor Street Queensway

- (a) Construction of a tramway across the junction with Moor Street Queensway including the installation of associated trackwork, plant, electrical and mechanical equipment and other operations necessary or expedient for the development in addition to those specifically listed below;
- (b) The regrading of Moor Street Queensway and the laying and the removal of an existing retaining wall to accommodate the eastern end of the Albert Street tramstop;
- (c) Temporary works for the purposes of carrying out the development including the formation of construction laydown areas and working sites, the provision of site offices, welfare facilities, storage areas, erection of temporary structures, fencing and lighting;
- (d) Miscellaneous highway operations including the removal of bollards, kerbing, drainage and ducting, traffic signals, lighting, traffic signs, street furniture and road markings required for implementation. These include:-
 - (i) alterations to the signalised junction at Albert Street and Moor Street Queensway to facilitate the tram crossing the highway; and
 - (ii) alterations to the highway on Moor Street Queensway to facilitate bus services and infrastructure.

4. Moor Street Queensway to New Canal Street

- (a) Construction of a tramway (partly on-street and partly off-street) including the installation of associated trackwork, plant, electrical and mechanical equipment and other operations necessary or expedient for the development in addition to those specifically listed below;
- (b) Realignment of Park Street from its junction with Masshouse Lane to its junction with Albert Street;
- (c) Alteration of the access to Hotel La Tour to enable drop off and loading facilities for Hotel LaTour, along with highway works necessary to create an exit onto Masshouse Lane;

- (d) Environmental works to mitigate the impacts of the development, including the laying out of hard and soft landscaping;
- (e) Construction and laying out of a bus lane, bus stops and laybys with associated landscaping, and new footways on land adjacent to Hotel La Tour to create a bus interchange;
- (f) Installation of a drainage attenuation tank;
- (g) Construction of platforms and erection of shelters and associated street furniture to form a tramstop close to New Canal Street to serve the proposed HS2 Curzon Street Station;
- (h) Miscellaneous highway operations including the removal of bollards, kerbing, drainage and ducting, traffic signals, lighting, traffic signs, street furniture and road markings required for implementation; and
- (i) Temporary works for the purposes of carrying out the proposed development including the formation of construction laydown areas and working sites, the provision of site offices, welfare facilities and storage areas, and the erection of temporary structures including fencing and lighting.

5. New Canal Street

- (a) Construction of a street running tramway along New Canal Street to the junction with Bordesley Street including the installation of associated trackwork, plant, electrical and mechanical equipment and other operations necessary or expedient for the development in addition to those specifically listed below;
- (b) Temporary works for the purposes of carrying out the proposed development including the formation of construction laydown areas and working sites, the provision of site offices, welfare facilities, storage areas, erection of temporary structures, fencing and lighting on land at New Canal Street for a construction compound and subsequent making good of this land; and
- (c) Miscellaneous highway operations including the removal of bollards, kerbing, drainage and ducting, traffic signals, lighting, traffic signs, street furniture, construction of footways and road markings required for implementation. These include the installation of traffic signals at the junction of New Canal Street, Bordesley Street and Meriden Street to improve highway safety.

6. Meriden Street

- (a) Construction of a street running tramway along Meriden Street crossing under the railway viaduct including the installation of associated trackwork, plant, electrical and mechanical equipment and other operations necessary or expedient for the development in addition to those specifically listed below;
- (b) Construction of platforms and erection of shelters and associated street furniture to form a tramstop to the east and west side of Meriden Street;
- (c) Installation of an electricity sub-station on land off Meriden Street (land parcels 68 and 69) and associated cabinets along with the creation of a means of access laying out of associated hard and soft landscape works.
- (d) The partial demolition of South and City College building to enable the creation of a new section of highway at the corner of Meriden Street and High Street Deritend.

- (e) Alteration to 60 Meriden Street (land parcels 75 and 76) to enable widening of the footway.
- (f) Environmental works to mitigate the impacts of the Scheme, including the laying out of hard and soft landscaping on land adjacent to Meriden Street and Digbeth High Street;
- (g) Temporary works for the purposes of carrying out the proposed development including the formation of construction laydown areas and working sites, the provisions of site offices, welfare facilities and storage areas, and the erection of temporary structures including fencing and lighting;
- (h) Miscellaneous highway operations including the removal of bollards, kerbing, drainage and ducting, traffic signals, lighting, traffic signs, street furniture, construction of footways and road markings required for implementation.

7. Meriden Street, Digbeth and High Street Deritend

- (a) Construction of a street running tramway from the junction of Meriden Street and Digbeth up to the junction with Heath Mill Lane including the installation of associated trackwork, plant, electrical and mechanical equipment, building fixings and other operations necessary or expedient for the development.
- (b) The erection of poles, overhead line equipment and associated cabinets;
- (c) Construction of shelters and associated street furniture to form a tramstop close to the junction with Milk Street and Rea Street;
- (d) Environmental works to mitigate the impacts of the Scheme, including the laying out of hard and soft landscaping along Digbeth and High Street Deritend;
- (e) Miscellaneous highway operations including the removal of bollards, kerbing, drainage and ducting, traffic signals, lighting, traffic signs, street furniture and road markings required for implementation to include:-
 - i. The rearrangement of highway and footways on the north and south sides of Digbeth and High Street Deritend to accommodate the tramway.
 - ii. The provision of a pedestrian crossing across Digbeth.
 - iii. The provision of a pedestrian crossing across High Street Deritend.
 - iv. Alterations to the highway junction at Heath Mill Lane and High Street Deritend and Alcester Street and High Street Deritend involving accommodation works for the realignment of the highway extending to the end of the Scheme.
- (f) Temporary works for the purposes of carrying out the Scheme including the formation of construction laydown areas and working sites, the provision of site offices, welfare facilities, storage areas, erection of temporary structures, fencing and lighting on land at Adderley Street for a construction compound and subsequent making good of this land.

8. General items throughout the route of the Birmingham Eastside Extension

- (a) Diversion, relocation and protective works to services, plant and other apparatus and equipment belonging to statutory undertakers, utility companies and others to facilitate the

construction of the tramway and associated highway and other works along the full length of the proposed tramway.

(b) Relocation and/or provision of new road traffic signs, street lighting and carriageway lane markings at various locations along the route of the proposed tramway

(c) Formation of areas of hard and soft landscape works at various locations adjacent to the proposed tramway and associated works.

(d) Any other ancillary works that are necessary or expedient in the carrying out of the development.

SCHEDULE 2
DRAFT PLANNING CONDITIONS

Definitions

In these conditions, unless the context otherwise requires:-

"the application site" means the land lying within the limits of deviation referred to in the Order;

"the development" means the works and operations authorised by the Order, including any ancillary development;

"the Environmental Statement" means the Environmental Statement accompanying the application for the Order submitted on 4 October 2016;

"the local planning authority" means Birmingham City Council; and

"the Order" means the Midland Metro (Birmingham Eastside Extension) Order [2017].

1. Time limits

The development hereby permitted shall be begun before the expiration of 5 years from the date that the Order comes into force.

Reason: To ensure that the works are begun with a reasonable period of time.

2. Design and external appearance

Works of construction shall not be commenced in respect of any of the following elements of the development:

- tramcar stops;
- permanent boundary treatment, to include walls, fencing and other structures;
- stopped up highways;
- highway crossings;
- poles and brackets required to support the overhead line system; and
- electricity substation and ancillary electrical equipment,

until details of the design and external appearance of that element have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that proper control is exercised over detailed design of the development in accordance with paragraphs 3.14C and 3.14D of the Birmingham UDP 2005 and the National Planning Policy Framework.

3. Materials

Details of materials to be used in any external surface of any of the following elements of the development:

- tramcar stops;
- permanent boundary treatment, to include walls, fencing and other structures;
- stopped up highways;

- highway crossings;
- poles and brackets required to support the overhead line system; and
- electricity substation and ancillary electrical equipment,

shall be submitted to and approved in writing by the local planning authority before that element of the development is commenced. The materials used shall be in accordance with the approved details.

Reason: To ensure satisfactory external appearance in the interests of visual amenity in accordance with paragraphs 3.14C and 3.14D of the Birmingham UDP 2005 and the National Planning Policy Framework.

4. Landscaping

Details of all proposed hard and soft landscaping including the programme for the implementation of planting shall be submitted to and approved in writing by the local planning authority before the relevant part of the development to which the landscaping in question relates is commenced. These details shall include proposed finished levels or contours, means of enclosure, hard surfacing materials, minor artefacts and structures, proposed and existing functional services above and below ground, and fully annotated planting plans to a scale of 1:100 showing, where used, locations of individually planted trees, areas of woodland, shrubs, hedges, bulbs, and areas of grass. Within ornamental planting areas, plans should be sufficiently detailed to show the locations of different single species groups in relation to one another, and the locations of any individual specimen shrubs. Other information shall include planting schedules, noting species, plant sizes and proposed numbers / densities and details of the proposed planting implementation programme. All hard and/or soft landscape works shall be implemented in accordance with the approved details. The approved works shall be implemented prior to the commencement of tram services on any part of the tramway authorised by the Order or in accordance with the programme agreed with the local planning authority and thereafter maintained. Any trees or shrubs which, within a period of two years from the completion of the development, die, are removed or become seriously diseased or damaged, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives its written approval to any variation.

Reason: In order to secure the satisfactory development of the application site, ensure a high quality of external environment and reinforce local landscape character in accordance with paragraphs 3.8, 3.10, 3.14 and 3.16A of the Birmingham UDP 2005.

5. Tree protection

No ground clearance, demolition or construction work shall take place for any part of the development until details of protective fencing for trees in accordance with BS:5837 (2012), including implementation timetable, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. The protective fencing shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and lowering of ground levels, shall be allowed within the protected areas during that period.

Reason: In order to secure the satisfactory development of the application site in accordance with paragraphs 3.8, 3.10 and 3.16A of the Birmingham UDP 2005 and the National Planning Policy Framework.

6. Archaeology

The development shall not begin until a scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority. All archaeological work shall be undertaken in accordance with the approved scheme of investigation.

Reason: To ensure adequate protection and recording of archaeological remains in accordance with paragraphs 3.30 and 3.33 of the Birmingham UDP 2005 and the National Planning Policy Framework.

7. Code of Construction Practice

The development shall not commence until a Code of Construction Practice (which must be in substantial accordance with the draft Code of Construction Practice at Appendix D2 of the Environmental Statement) has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Code of Construction Practice.

Reason: To ensure adequate environmental protection during construction and to safeguard the amenities of occupiers of premises in the vicinity of the development in accordance with paragraphs 3.77 and 3.78 of the Birmingham UDP 2005 and the National Planning Policy Framework.

8. Contaminated land

No part of the development except demolition shall take place until the following components of a remediation scheme to deal with the risks associated with contamination of each part for the intended use have been submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment, which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and
 - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) above to provide information for a detailed risk assessment of the risk to all receptors that may be affected, including those off site.
- 3) An options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken, timetable of works and site management procedures.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved and must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 (and subsequent legislation) in relation to the intended use of the land after remediation.

Reason: In order to secure the satisfactory development of the application site in accordance with paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework.

9. Highway access

Details of the siting, design and layout within the limits of deviation of any new permanent means of access to a highway to be used by vehicular traffic, or of any permanent alteration of an existing means of access to a highway used by vehicular traffic, shall be submitted to and approved in writing by the local planning authority before the relevant part of the development begins. The development shall be carried out in accordance with the approved details.

Reason: In order to secure the satisfactory development of the application site in accordance with paragraphs 3.8, 3.10 and 3.14 of the Birmingham UDP 2005 and the National Planning Policy Framework.

10. Alterations to the highway

No works to the existing highway, or to the proposed highways, on a particular phase of the development shall take place until details of the siting, design and appearance of above ground highway structures including bollards, railings, lighting/lamp posts, stairs, ramps, retaining structures and highway plant structures for that phase of the highway works have been submitted to and approved in writing by the local planning authority. The details shall include scaled plans of the structures. The development shall be implemented in accordance with the approved details.

Reason: In order to secure the satisfactory development of the application site in accordance with paragraphs 3.8, 3.10 and 3.14 of the Birmingham UDP 2005 and the National Planning Policy Framework.

11. Alterations to buildings and structures

No works (including demolition) to buildings and structures, but excluding works within the highway, on a particular phase of the development shall take place until details of works affecting the siting, design, alteration and external appearance of those buildings and structures have been submitted to and approved in writing by the local planning authority. The details shall include scaled plans of the permanent or temporary alterations to the external appearance of any building or structure. The development shall be implemented in accordance with the approved details.

Reason: In order to secure the satisfactory development of the application site in accordance with paragraphs 3.14C and 3.14D of the Birmingham UDP 2005 and the National Planning Policy Framework.

12. Levels

No part of the development, excluding demolition, shall take place until details of finished site and ground floor levels in relation to the existing site levels, adjoining land, buildings and structures for that part of the development have been submitted to and approved in writing by the local planning authority. The details shall include the proposed grading and mounding of land areas, cross-sections through the site and relationship with the adjoining landform and buildings. The development shall be implemented in accordance with the approved details.

Reason: In order to secure the satisfactory development of the application site in accordance with paragraphs 3.8, 3.10 and 3.14 of the Birmingham UDP 2005 and the National Planning Policy Framework.

13. Drainage

No part of the development shall take place until a surface water drainage scheme based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is completed and thereafter maintained.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of these in accordance with paragraphs 3.71-3.76 of the Birmingham UDP 2005, the Sustainable Management of Urban Rivers and Floodplains SPD and the National Planning Policy Framework.

14. Airborne noise

The development shall be designed and operated in accordance with the *Midland Metro Extension Noise and Vibration Policy* (February 2014), or any subsequent version of it. For the purposes of section 5 of the policy, Noise Mitigation at Source, the pre-existing ambient noise levels shall be those in Tables 11.10 and 11.1 of the Environmental Statement, or those from any later survey which has been approved in writing by the local planning authority.

Reason: To minimise impact from airborne noise caused by the running of tramcars in accordance with paragraphs 3.77 and 3.78 of the Birmingham UDP 2005 and the National Planning Policy Framework.

15. Ground-borne noise

Where the dominant source of noise is ground-borne, the following noise standards shall be applied to the development for the purposes of sections 6 and 7 of the *Midland Metro Extension Noise and Vibration Policy* applied by condition 14 above:

- Inside noise sensitive rooms in residential buildings – 40 dB LMAX, slow;
- Inside noise sensitive rooms in offices - 40 dB LMAX, slow.

Reason: To minimise impact from ground-borne noise and vibration caused by the running of tramcars in accordance with paragraphs 3.77 and 3.78 of the Birmingham UDP 2005 and the National Planning Policy Framework.

16. Electro-magnetic compatibility

The development shall be designed and constructed in accordance with the electromagnetic compatibility standards set out in 'EN 50121, Parts 1 to 6: *Railway applications - Electromagnetic compatibility*', or any successor standards.

Reason: To ensure that the tramway does not give rise to unacceptable electro-magnetic interference.