

Birmingham Eastside Extension

APP/P7.1

Transport and Works Act 1992

The Transport and Works
(Applications and Objections Procedure)
(England and Wales) Rules 2006

T Bruce Fowler MRICS
Acquisition Surveyor

Main Proof of Evidence



WEST MIDLANDS
COMBINED AUTHORITY

TRANSPORT AND WORKS ACT 1992
TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004
Evidence on behalf of
West Midlands Combined Authority
MIDLAND METRO (BIRMINGHAM EASTSIDE EXTENSION) ORDER

Main Proof of Evidence

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T Bruce Fowler MRICS

Regarding

Compulsory Purchase and Property Matters

APP/P7.1

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1. Introduction

- 1.1 I am Trevor Bruce Fowler, a Partner in the firm Bruton Knowles with head office of Olympus House, Olympus Business Park, Quedgeley, Gloucester. The firm operates from 12 offices in England and Wales.
- 1.2 I am a member of the Royal Institution of Chartered Surveyors (RICS) having qualified in 1990. I am also a member of the Compulsory Purchase Association.
- 1.3 I have worked for Bruton Knowles since 2002 and have practiced predominately in the field of compulsory purchase and compensation. I act for numerous Local Authorities dealing with compulsory purchase order, development consent orders and Transport and Works Act orders.
- 1.4 Bruton Knowles is instructed under the West Midlands Combined Authority (WMCA) property services framework to provide property advice on the Midland Metro Birmingham Eastside Extension project.
- 1.5 Bruton Knowles has supplied property valuation advice to assist negotiations in property acquisition ahead of the use of any compulsory purchase powers. Two of my colleagues at Bruton Knowles have been providing valuation advice to Mike Ogden, in-house Consultant to the project.
- 1.6 I am aware of the details of the project from the study of the application document and have familiarised myself with the relevant properties affected by the Order.

2. Scope of Evidence

- 2.1 My Evidence will address the property impacts of the Scheme and will cover the following:-
- 2.2 WMCA approach and justification for the acquisition of land;
- 2.3 The scope and requirement for the acquisition powers sought by the order; and
- 2.4 The effect of the acquisition required for the Scheme on landowners and occupiers.
- 2.5 Whilst the amount of compensation properly recoverable is not a matter for the Inquiry I will consider the eligibility of Objectors to recover compensation for any property losses incurred as a reasonable and necessary consequence of the Scheme.
- 2.6 Matters of Engineering & Design, funding, environmental impact both during and after the works, impact on heritage and archaeology, need for the scheme and town planning issues are dealt with in the evidence of others.

3. WMCA Approach to Land Acquisition

- 3.1 WMCA has had due regard to paragraphs 12 to 15 of the Department for Communities and Local Government (DCLG) guidance on the Compulsory Purchase process and the Crichel Down Rules¹ (the DCLG Guidance) (BEE/E24) in formulating the scope and justification for seeking powers of compulsory acquisition in the Order (BEE/A8/2).
- 3.2 WMCA, acting in accordance with the DCLG guidance and taking account of the Scheme requirements, has sought to minimise the land and rights to be acquired or used and is limited to that required for the successful delivery of the scheme.
- 3.3 The Scheme design has had regard to the impact of the works and the operation & maintenance of the Scheme post completion. Following the completion of initial design, WMCA sought to engage with relevant stakeholders to understand more fully the issues that landowners had and in particular the following consultation activity was undertaken.
- 3.4 A summary of the consultation and development of the scheme is set out in section 6 of the Statement of Case.
- 3.5 In terms of responses from landowners, a number of issues arose from the consultation as set out below:
- 3.6 Hammerson (Martineau Galleries) (OBJ/06) expressed concerns in relation to issues such as the Albert Street Stop, the Metro alignment and highway in the vicinity of their development;
- 3.7 Hotel La Tour (OBJ/12) expressed concerns in terms of ongoing access to the hotel property, and the Metro alignment & bus facility outside their property;
- 3.8 Gooch Estates (OBJ/11) expressed concern in relation to the proposed Metro stop and the Metro alignment along New Canal Street and Meriden Street
- 3.9 Following consultation, the Scheme design was completed having regard to the issues raised during the consultation exercise with changes to the initial design.

¹ Department for Communities and Local Government – Guidance on Compulsory purchase process and The Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion (October 2015).

- 3.10 As part of the consultation and land referencing exercise, dialogue has been undertaken with a number of landowners who are affected by the Scheme. A summary of consultation and discussion to date is included as document 'BEE/A10 Report Detailing Consultation Undertaken'.
- 3.11 Where possible, WMCA have sought to enter into agreements with landowners and affected parties and have successfully entered into agreement with a number of parties. Such agreements relate to a variety of issues, including compensation, but also, for example with McDonalds, an extension to the statutory minimum notice period before taking entry to 15 months. Such agreements have sought to mitigate the effects of the Scheme on persons with an interest in land.
- 3.12 WMCA consider it is important to minimise the land required in the Order and the engineering design and consultation process have been undertaken to ensure land taken both temporary and permanent is required for the successful development of the Scheme.
- 3.13 However despite seeking to minimise the land required for the Scheme, the nature of the project requires that land and rights outside the control of WMCA are required. Initial consultation demonstrated that it was unlikely that all of the land and rights required would be available by negotiation hence there is a requirement to seek compulsory powers to deliver the Scheme.
- 3.14 Although agreement has been reached with some landowners who had objected to the scheme, this has been achieved in the context of the prospect of a TWAO being confirmed and negotiations have been concluded under the shadow of such compulsion. Without the prospect of a TWAO, it is unlikely that WMCA would have achieved the agreements that they have.
- 3.15 WMCA are seeking compulsory acquisition powers in the Order (BEE/A8/2) to enable WMCA to secure in a timely and efficient manner the land interests and rights which WMCA have identified, following consultation, as being required for the construction and subsequent maintenance and operation of the scheme.
- 3.16 The Order, if confirmed, 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 confirmation of the Order (BEE/A8/2) 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 Order (BEE/A8/2), 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.

- 3.17 Therefore, the granting of compulsory acquisition powers in the Order (BEE/A8/2) would provide certainty that WMCA will be able to deliver the Scheme.

4. Human rights consideration

4.1 Human rights consideration Article 1 of the First Protocol to the European Convention on Human Rights states that:-

“Every natural or legal person is entitled to peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties”.

4.2 Article 1 is a qualified right in that no one shall be deprived of his possessions “except in the public interest and subject to the conditions provided for by law”.

4.3 The compulsory acquisition of land for the rail/tramway purposes specified in the Order is authorised by, and subject to, the Transport and Works Act 1992 (the 1992 Act) (BEE/B1). By enacting the 1992 Act the Government has determined that, subject to procedural safeguards, it can be in the public interest that individuals be deprived of their land for rail/tramway purposes. The procedural safeguards are provided by the 1992 Act and the Transport and Works (Inquiries Procedure) Rules 2004 (BEE/B4) which enable objections to be raised to compulsory acquisition and considered by an independent inspector. In addition, where land is authorised to be compulsorily purchased by the making of the Order under the 1992 Act, compensation will be payable under the Compensation Code as applied by the Order (see Part 3 of the Order (BEE/A8/2). Where disputes as to the amount of compensation arise, these may be referred for independent consideration by the Lands Chamber of the Upper Tribunal.

4.4 The Order application is being pursued in the public interest as required by Article 1 of the First Protocol. The public benefits associated with the Order application are set out in the Proof of Evidence of Peter Adams (APP/P1.1). The land to be acquired is required in order to deliver the Scheme which promotes

economic wellbeing. Therefore, the interference with Convention rights is justified and proportionate. I refer to the Statement of Case (BEE/F2), 13.20 et seq.

- 4.5 Article 8 of the European Convention on Human Rights states 'Everyone has the right to respect for his private and family life, his home and his correspondence'. The Article provides further that any such interference is permissible on a number of grounds including 'public safety or the economic well-being of the country'. Interference with Article 8 rights is necessary and proportionate in that, without such interference, the Scheme could not be delivered.

5. The scope of acquisition

- 5.1 The Order (BEE/A8/2), if approved, grants WMCA the powers to permanently and temporarily acquire land, or rights over land, needed to construct, operate and maintain the proposed Scheme. WMCA seeks compulsory purchase powers to acquire no more land than appears to them to be reasonably required in order to construct, operate and maintain the proposed tramway works in a safe, timely and economically efficient manner.
- 5.2 The extent of the land to be compulsorily acquired has been determined by the design and construction requirements for all elements of the Scheme including the new tramway works, together with ancillary works such as utility diversions and environmental mitigation.
- 5.3 Land and property within the Order limits of the Order (BEE/A8/2) may be acquired or used by WMCA for the Scheme for a number of different purposes, including:-
- Temporary occupation and use of land;
 - Permanent acquisition of rights over land, including on relation to fixing equipment to buildings
 - Permanent acquisition of land.
- 5.4 The provisions of Article 34 of the Order (BEE/A8/2) provide for the temporary occupation and use of land during the construction of the authorised works. The provisions allow WMCA to use (a) the land specified in Schedule 7 to the Order (BEE/A8/2) for the works specified in that Schedule; and (b) any of the land within the permanent limits. The use of the land, following it being entered under the provision of Article 34, are restricted to works in connection with the authorised works and include the ability to remove buildings and vegetation from the land, construct temporary works and construct any of the authorised works

on the land.

- 5.5 Prior to entry WMCA, must give at least 14 days' notice of intention to enter the land, such notice to be given formally. As the land is taken on a temporary basis only, it will be returned to the landowner. Where land sits within the temporary limits as defined by the Order Plans the land must be returned to the landowner within 2 years of the completion of the authorised works specified in Schedule 7. Where land lies within the permanent limits as defined by the Order plans, the land must be returned within 2 years of the completion of the works for which temporary possession was taken, except where WMCA has sought to acquire the land permanently using either the notice to treat or general vesting procedures. These time limits can be amended with the agreement of the landowner.
- 5.6 Where land has been taken on a temporary basis during the construction of the authorised works, Article 34 (4) of the Order provides that WMCA remove all temporary works from the land and restore the land to the reasonable satisfaction of the landowners. The provision however does not extend to replacing buildings that may have been demolished as part of the works.
- 5.7 Although the provisions in Article 34 (5), provides for temporary possession of the land, WMCA is not required to take a legal interest in the land (Article 34 (8)). The article also provides for compensation to be paid to the affected landowner. This is considered further in section 6 below.
- 5.8 The plots over which temporary possession may be taken under the provisions of Article 34 are set out below along with a brief comment as to the reason why they are required for the scheme. These plots can be found in Schedule 7 of the Draft Order.

Table BF1

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Number of land shown on works boundary</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>Comments</i>
Albert Street	17	Stopping up existing highway and replacing with landscaped area	Landscaped area also includes part of demolished building
Albert Street	18	Stopping up existing highway and replacing with landscaped area	
Albert Street	28	Construction compound	Compound area – previously used by TfWM for BCCE works).
Albert Street	27	Highway works alterations to car park access	Area required to provide for alterations needed to IKEA entrance (changes to islands, road markings, minor level changes).
Albert Street	24	Temporary construction area	3D design showed there may be a need to amend / regrade church car park.
Albert Street	30	Temporary construction area	To provide for paving up to the ramp into Hotel La Tour.
Albert Street	33	Temporary construction area	Required to allow construction, formwork and working zones.
Albert Street	34	Temporary construction area	
New Road (Between Moor Street Queensway (B4100) and Park Street)	36	Temporary construction area	
New Road (Between Moor Street Queensway (B4100) and Park Street)	37	Temporary construction area	
New Road (Between Moor Street Queensway (B4100) and Park Street)	40	Temporary construction area	
Park Street	41	Temporary construction area	
Park Street Burial Grounds	42	Temporary construction area	
Eastside Park	49	Temporary construction area	
Eastside Park	50	Temporary construction area	Required to allow construction, formwork and working zones.

<i>(1) Location</i>	<i>(2) Number of land shown on works boundary</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>Comments</i>
Banbury Street	51	Temporary construction area	Land allowed stopping up these roads and making good prior to HS2 work.
New Canal Street	52	Temporary construction area	
New Canal Street	59	Construction compound	Construction compound
New Canal Street	60	Construction compound	
New Canal Street	63	Temporary construction area	5m working strip.
Meriden Street	74	Temporary construction area	Land required to allow construction of edging or to modify levels slightly, make good or even provide new paving.
Meriden Street	76	Temporary construction area (Building alteration)	To ensure that safe demolition of adjacent properties can take place subject to detailed design
Meriden Street	77	Temporary construction area (Building alteration)	
Meriden Street	78	Temporary construction area (demolition)	
High Street Deritend	84	Temporary construction area	Allowed just to get access to the river
High Street Deritend	86	Temporary construction area	Required to allow construction, formwork and working zones.
Adderley Street	93	Construction compound	Main Compound area.

5.9 The provisions of Article 35 of the Order (BEE/A8/2) provide for the temporary use of land for maintenance of an authorised work within a specified period i.e. within 5 years from which an authorised work is open for public use. The rights are restricted to land within the Order limits that is reasonably required for the purpose of maintaining the works or any ancillary works connected with it or securing the safe operation of any such work.

5.10 On the expiry of the 5 year period, the rights granted to WMCA in Article 35 cease to exist.

5.11 Prior to entry WMCA must give at least 28 days' notice of intention to enter the land, such notice to be given formally. The Authority may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance works for which possession of the land was taken.

- 5.12 Where land has been taken on a temporary basis, Article 35 of the Order provides that WMCA remove all temporary works from the land and restore the land to the reasonable satisfaction of the landowners. The provision however does not extend to replacing buildings that may have been demolished as part of the works.
- 5.13 The powers conferred upon WMCA in Article 35 do not extend to occupation of a house or garden or an occupied building. This provides some protection to occupiers.
- 5.14 Article 35 also provides for compensation to be paid to the affected landowner. This is considered further in section 6 below.
- 5.15 The provisions of Article 30 of the Order (BEE/A8/2) provide for the acquisition of new rights by WMCA. The article provides for the acquisition of easements or other rights within the permanent limits as defined in the Order plans. The Article also provides for the acquisition of both easements and rights that are in existence prior to acquisition of land or creation of new rights. The rights are available for any purpose for which the land may be acquired.
- 5.16 Article 30 also provides for compensation to be paid to the affected landowner. This is considered further in section 6 below.
- 5.17 The provisions of Article 27 of the Order (BEE/A8/2) provide for the permanent acquisition of land by WMCA. The article provides for the acquisition of land within the permanent limits as defined in the Order plans.
- 5.18 The provisions in Article 27 are subject to provisions in Article 31 of the Order which seeks to restrict the use of compulsory acquisition powers to land parcels set out in Schedule 6; such land is restricted to rights for permanent fixing and easements for rights of way.
- 5.19 Articles 28 and 29 apply the provisions of Part 1 of the Compulsory Purchase Act 1965 and the Acquisition of Land Act 1981 to the compulsory acquisition of land under the Order; these Acts set out a statutory framework for taking possession of land and introduce the compensation code provisions to the Order.

5.20 Article 40 of the Order (BEE/A8/2) sets a time limit of 5 years from the date on which the Order comes into force for powers of compulsory acquisition or temporary occupation to be used. In particular no notice to treat or general vesting notice may be served nor may a notice for temporary possession be served.

5.21 In addition to considering the land required on a temporary basis, a summary of these and other plot requirements is set out in below in Table BF2.

Table BF2

Parcel	Temporary or Permanent	Reason for inclusion
1, 3, 5, 7	Fixing	To affix equipment to buildings shown
2, 4, 6, 8, 9 & 29	Highway	Alteration to highway to accommodate tram track and infrastructure and consequential alterations to kerb lines, road markings, signage, taxi and parking bays
10	Fixings	To affix equipment to building
11 to 16	Permanent acquisition	To demolish Kings Parade building and for provision of Metro tracks and new Albert Street adopted highway and for highway alterations to access adjoining businesses
17 & 18	Temporary acquisition	Existing adopted highway to be closed as required in order to support works of construction in particular demolition of Kings Parade
19	Permanent acquisition	For provision of Metro tracks and new Albert Street adopted highway and for highway alterations to access adjoining businesses
20	Permanent acquisition	For provision of Metro tracks and highway alterations to access adjoining businesses and new Albert Street adopted highway
21	Permanent acquisition	For highway alterations to access adjoining businesses and new Albert Street adopted highway - following the detailed design of the scheme and its construction, some of this plot may potentially be available for a buy-back option where not required for maintenance and operation.
22 & 23	Fixings	To affix equipment to building
24	Temporary acquisition	To provide continuity / tie in with the levels of the surface car park up to the building line of church building
25	Highway	For provision of Metro tracks and new Albert Street adopted highway and for highway alterations to access adjoining businesses. This parcel also provides for junction on to Moor Street Queensway
26	Fixings	To affix equipment to corner of building
27	Temporary acquisition	Alterations to car park access during works of construction
28	Temporary acquisition	Use as compound to support works of construction
30	Temporary acquisition	To provide continuity / tie in with the new paving that will surround Metro by paving up to the Hotel LaTour building line
31	Permanent acquisition	For Metro tracks and bus provision including operational access / maintenance
32, 35 & 38	Permanent acquisition	For bus provision including access onto Moor Street Queensway
39	Permanent acquisition	For Metro tracks and bus provision including operational access / maintenance

33, 34, 36, 37, 40, 41, 42, 49 & 50	Temporary acquisition	During construction of Metro to provide a 5m strip to allow the Metro to be built
43	Permanent acquisition	For Metro tracks and bus provision including operational access / maintenance
44	Permanent acquisition	For Metro tracks and bus provision including operational access / maintenance and consequential alterations to highway
45	Permanent acquisition	For Metro infrastructure (for example cabling and drainage) and also to enable WMCA to provide continuity / tie in with the new paving that will surround Metro by paving up to the Hotel LaTour building line. Therefore, following the detailed design of the scheme and its construction, some of this plot (in the section of repaving) may potentially be available for a buy-back option.
47	Permanent acquisition	Highway alterations adding additional lane to become dedicated access into bus interchange and for metro tracks and for drainage attenuation tank
48	Permanent acquisition	For Metro tracks, infrastructure and to accommodate drainage attenuation tank
51	Temporary acquisition	Consequential highway alterations to kerb lines, road markings and signage
52	Temporary acquisition	During construction of Metro to provide a 5m strip to allow the Metro to be built and consequential highway alterations including kerb lines, road markings and signage
53	Permanent acquisition	For Metro tracks and infrastructure on highway, alterations to reflect closure of highway
54	Permanent acquisition	For Metro tracks and infrastructure on highway, alterations to reflect closure of highway and passage of tracks beneath London to Birmingham railway lines and any consequential alterations required to railway arch spanning the highway
57	Permanent acquisition	Alteration to highway to accommodate tram track and infrastructure and consequential alterations to kerb lines, road markings, signage, taxi and parking bays
55 & 56	Permanent acquisition	Alteration to highway consequential to accommodating tram on New Canal Street, including kerb lines, road markings, signage, taxi and parking bays
58	Permanent acquisition	Required to accommodate tram infrastructure and consequential alterations to kerb lines
61	Permanent acquisition	Required to accommodate tram infrastructure and consequential alterations to kerb lines
62	Permanent acquisition	Alteration to highway to accommodate tram track and infrastructure and consequential alterations to kerb lines, road markings, signage

64	Permanent acquisition	Consequential highway alterations to kerb lines, road markings and signage
65	Permanent acquisition	Consequential highway alterations to kerb lines, road markings and signage
68	Permanent acquisition	to accommodate substation and associated infrastructure
69	Permanent acquisition	land to rear of plot 68 required to accommodate substation and associated infrastructure and provision of access over remaining land to substation
71	Temporary acquisition	Land required to allow construction of edging or to modify levels slightly, make good or even provide new paving
72 & 73	Permanent acquisition	Alteration to highway to accommodate tram track and infrastructure and consequential alterations to kerb lines, road markings, signage, taxi and parking bays
75	Permanent acquisition	Alteration to building line to provide adequate depths for footway and to accommodate tram track and infrastructure and consequential alterations to kerb lines, road markings, signage
79	Permanent acquisition	To demolish Hartwells building and for provision of Metro tracks and new segregated lane for traffic and for consequential alterations to kerb lines, road markings, signage
81, 82, 83, 85, 87, 88, 90, 91 and 92	Permanent acquisition	alteration and realignment to highway and kerb lines

5.22 I have considered the compulsory rights and interests sought by WMCA and have compared them to the engineering requirements as far as I am able technically to do. All the land within the Order is required in order to construct the Scheme but certain plots will not be required post construction and can be returned to the existing landowners. Therefore, it is only necessary to obtain temporary possession over the (part) plots shown in Plan MMD-300207-HS29-DRA-0000-0004 in Appendix 2 – ‘Land Changed to Temporary Acquisition. The land shown hatched red indicates the land subject to this change.

5.23 Plots 43 and 48 lie within an area of open space. Post construction, and during operation, these plots will remain as open space, regardless of ownership.

- 5.24 After the completion of the construction of the BEE works, any residual land will be disposed of in accordance with the terms of the agreements that WMCA is currently negotiating with the existing landowners and BCC.

6. Compulsory Purchase and the compensation code

- 6.1 The powers sought within the Order (BEE/A8/2) will enable WMCA, upon the service of appropriate notices, to enter on and take possession of the numbered land Plots within the Order limits in order to carry out the works required to construct and operate the Scheme. The Plots are shown on the Deposited Plans and Sections (BEE/A11) and are described in the Book of Reference (BEE/A12). Both of these documents were submitted by WMCA with the Order application.
- 6.2 The Order powers would enable WMCA to take possession of land within the Order limits without the landowner's consent, as set out in section 5 above. If necessary, WMCA will continue to seek to reach agreement for land entry with the landowners in advance of using compulsory purchase powers in accordance with the DCLG Guidance.
- 6.3 Article 28 of the Order (BEE/A8/2) applies Part 1 of the Compulsory Purchase Act 1965 which, through its application, has the effect of requiring WMCA to pay compensation to qualifying parties whose land is permanently acquired under what is known as the Compensation Code. The Compensation Code is simply an amalgamation of numerous Acts of Parliament and legal precedents which have evolved over several decades.
- 6.4 In summary the Code provides for the recovery of loss of the value of the interest taken, severance and injurious affection and disturbance losses where they can be proven. In addition the Code provides for the advance payment of compensation thereby ensuring the landowner is not out of pocket in the event land interests are acquired.
- 6.5 Land and property owners upon whom notice is served will be entitled to claim compensation in accordance with this Compensation Code, which provides a consistent approach to the assessment of fair compensation.
- 6.6 Compensation for land occupied temporarily under Article 34 and Article 35 of the Order (BEE/A8/2) will be assessed in accordance with provisions within those articles.

- 6.7 Articles 34 and 35 provide for compensation for any loss or damage arising from the exercise of the temporary possession powers to be paid to landowners who have had land taken using the powers.
- 6.8 The total amount of any compensation to be paid is usually agreed between the parties. In the event that agreement between the parties cannot be reached then the amount of compensation can be independently determined. Where there is a disputed claim, both parties may choose to make a joint reference via the Alternative Dispute Resolution process, or by one or both parties making a reference to the Lands Chamber of the Upper Tribunal.
- 6.9 Articles 36 and 37 of the Order provide for a disregard in any increase or decrease in the value of the land being acquired by virtue of the scheme which is a key principal of the compensation code.
- 6.10 Article 39 of the Order protects WMCA for paying compensation twice by ensuring that there is no double recovery. This would ensure, for example that a loss sustained by an owner could not be compensated for under provisions of both temporary and permanent land acquisition.
- 6.11 Article 39 of the Order also provides for a mechanism whereby an owner who is having part only of his land acquired, to serve a counter notice requesting that WMCA acquire the whole where a material detriment to the retained holding can be demonstrated.

7. Landowners affected by compulsory acquisition

- 7.1 All of the interest owners are included in the book of reference. Of these, twelve persons with an interest in land objected to, and two made representations, regarding the Scheme. It can be seen therefore that the majority of persons with an interest in land have not sought to object or make representations to the Inquiry.
- 7.2 WMCA will continue, where possible, to seek to secure through private agreement with affected landowners the land required either permanently or temporarily for the Scheme. However, WMCA will continue to retain land within the Order limits and so subject to compulsory acquisition powers. This is to ensure that there is no impediment to WMCA's ability to deliver the Scheme.
- 7.3 Appendix 2 in APP/P7.2, sets out the reasons why the land is required from each remaining Objector.

8. Conclusions

- 8.1 The land and rights included in the Order have been carefully considered and reviewed throughout the emerging Order process.
- 8.2 All reasonable efforts have been made to reduce the impact of the Scheme on landowners with the land and rights required being only those proportionate to meet the construction and design requirements of the Scheme. Land used on a temporary basis will be returned to the landowner in accordance with the draft Order or by individual agreement.
- 8.3 Compensation is available in accordance with the Compensation Code to persons with an interest in land in respect of their reasonable losses incurred due to the Scheme.

9. Declaration

- 9.1 I hereby declare as follows.
- 9.2 This proof of evidence includes all facts which I regard as being relevant to the professional opinion which I have expressed and I have drawn the Inquiry's attention to any matter which would affect the validity of that opinion.
- 9.3 I believe the facts which I have stated in this proof of evidence are true and that the opinions are correct.

T Bruce Fowler MRICS

19 October 2017

Appendix Documents

Appendix 1

Detailed Use of Plots by Objector

Appendix 2

Plan MMD-3—207-HS29-DRA-0000-0004

Land Changed to Temporary Acquisition