



Department for Transport

Bircham Dyson Bell LLP
Solicitors and Parliamentary Agents
50 Broadway
London
SW1H 0BL

Martin Woods
Head of the TWA Orders Unit
Department for Transport
General Counsel's Office
Zone 1/18
Great Minster House
76 Marsham Street
London SW1P 4DR

Enquiries: 020 7944 2487
Email:
transportandworksact@dft.gsi.gov.uk
Web Site: www.gov.uk/dft/twa

Our ref: TWA/12/APP/05
Your ref: PHT/Y056829

30 September 2013

Dear Sirs,

TRANSPORT AND WORKS ACT 1992 TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION FOR THE PROPOSED TRANSPORT FOR GREATER MANCHESTER (LIGHT RAPID TRANSPORT SYSTEM) (SECOND CITY CROSSING) ORDER AND DEEMED PLANNING PERMISSION

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to say that consideration has been given to the report of the Inspector, Alan Boyland, BEng (Hons) DipTP CEng MICE MCIHT MRTPI, who held a public local inquiry between 22 and 30 January 2013 into the applications made by your clients, Transport for Greater Manchester ("TfGM"), for—

(a) the Transport for Greater Manchester (Light Rapid Transport System) (Second City Crossing) Order ("the Order"), to be made under sections 1 and 5 of the Transport and Works Act 1992 ("TWA"); and

(b) a direction as to deemed planning permission for the development provided for in the Order, to be issued under section 90(2A) of the Town and Country Planning Act 1990 ("the planning direction").

2. The Order and the planning direction would authorise the construction and operation of a second tram route through Manchester City Centre for the existing Metrolink system. The scheme (known as the Second City Crossing and referred to in this letter as "the 2CC scheme") would run between a point near the Manchester Central Convention Centre on Lower Mosley Street and a point near Victoria Station on Corporation Street. The Order would also authorise the compulsory acquisition of land and rights and the temporary use of land for the purposes of constructing, operating and maintaining the 2CC scheme.

3. Enclosed with this letter is a copy of the Inspector's report dated 16 May 2013. His conclusions are set out in Section 10 of the report, and his recommendations are at Section 11.

Summary of Inspector's recommendations

4. The Inspector recommended that the Order be made, subject to modifications, and that the planning direction be granted, subject to conditions.

Summary of the Secretary of State's decision

5. For the reasons given in this letter, **the Secretary of State has decided to make the Order, with modifications, and to give the planning direction, subject to the conditions set out in Annex 1 to this letter.** In a separate letter issued today, the Secretary of State for Communities and Local Government has decided to give 19 listed building consents for the attachment of fixing bolts to support the overhead line equipment ("OLE") associated with the 2CC scheme, and conservation area consent for the demolition of the existing St Peter's Square Metrolink Stop.

Secretary of State's consideration

6. Careful consideration has been given to all arguments put forward by, or on the behalf of, the parties. The Secretary of State's consideration of the Inspector's report is set out in the following paragraphs. All paragraph references, unless otherwise stated, refer to the Inspector's report ("IR").

Aims of, and need and justification for the 2CC scheme

7. The Secretary of State agrees with the Inspector that the 2CC scheme would meet the key objectives set for it of increasing capacity through the City Centre, increasing flexibility in the operation of the Metrolink network, and improving network resilience and service reliability in the event of disruption (IR 10.3). He agrees also that the scheme would enable implementation of the full Metrolink network expansion programme since, as explained by TfGM at IR 4.9, without it the current single link in the City Centre would act as a bottleneck leading to delays and instability of flow as the system expands.

8. The Secretary of State agrees with the Inspector that the 2CC scheme would result in significant transportation and regeneration benefits both within the City Centre and across the wider conurbation. He notes that there would also be environmental benefits in the City Centre, including in combination with the already permitted redesign and redevelopment of St Peter's Square (IR 10.6).

Main alternative options considered

9. The Secretary of State notes that the proposed scheme was one of seven assessed by TfGM. He agrees with the Inspector that, having regard to relative costs, transportation benefits and impacts on heritage assets, no other route is preferable to the one proposed (IR 10.7–8).

Consistency with policies

10. The Secretary of State agrees with the Inspector that, subject to the following qualification, the 2CC scheme would be consistent with relevant national, regional and local policies (IR 10.10). As noted by the Inspector, the Regional Spatial Strategy for the North West was revoked on 20 May 2013, but the Secretary of State agrees with him that this does not materially diminish the policy case for the 2CC scheme (IR 10.12). He agrees further with the Inspector that significant weight should be given to the policies in the Manchester Core Strategy and Local Transport Plan which are relevant to the 2CC scheme (IR 10.13-14).

The likely impacts of the 2CC scheme on the public, businesses and the environment during construction and operation

Vibration, noise and dust

11. The Secretary of State notes the evidence of TfGM (which was not countered at the inquiry) that during construction, there would be minor adverse vibration effects if piling is used, for example for OLE poles, while there would effectively be no additional vibration from the operation of trams (IR 10.17). He is satisfied that controls and phasing would mitigate the significant impact of noise levels from construction activities (which are predicted to be high) as far as is practicable. As for noise from the operation of trams, he notes TfGM's evidence that at no location on the 2CC scheme would there be more than a minor adverse effect and that the scheme is expected to have a net beneficial effect on road traffic noise levels on surrounding roads (IR 10.18–19, 21). In this context, the Secretary of State notes also that the objection of Q Hotels and Midland Hotel was withdrawn after the inquiry had closed.

12. The Secretary of State agrees with the Inspector that, subject to compliance with the Code of Construction Practice ("CoCP") and other environmental mitigation measures, there would be no significant adverse effects from dust and no significant adverse air quality effects (IR 10.22-23).

Impacts on townscape, including conservation areas and listed buildings

13. The Secretary of State agrees with the Inspector that while the fixing of bolts to 19 listed buildings to support the OLE would cause harm to the fabric and appearance of these buildings, that harm would be less than substantial (IR 10.25). He agrees also with the Inspector's assessment (at IR 10.27-43) of the impacts of the 2CC scheme on the seven conservation areas through which it would run, on the setting of listed buildings and on non-designated heritage assets. He accordingly agrees with the Inspector's summary conclusions at IR 10.44-45, as follows:

"I conclude that the 2CC scheme once completed would cause less than substantial harm to the setting of the Grade II Fraser Statue as a result of the OLE poles, and the OLE fixings would cause less than substantial harm to the 19 listed buildings to which they would be attached. Accordingly, their special architectural or historic interest would not be preserved. There would also be less than substantial harm to the non-designated heritage assets. I also conclude that during the construction period the

nature and scale of the works involved would cause temporary and less than substantial harm to the settings of the listed buildings along its route and to the characters and appearances of the conservation areas through which and along the boundaries of which the 2CC route would pass. The *[National Planning Policy] Framework* indicates (para 134) that, where there would be less than substantial harm to heritage assets, the harm should be weighed against the public benefits of the proposed development. Otherwise I conclude that the proposal would preserve or enhance the character and appearance of each of the 7 conservation areas through which or along the boundary of which the line would pass, and it would preserve the settings of all the other Grade I, Grade II* and Grade II listed buildings along its route.”.

14. The Secretary of State agrees also with the Inspector that the impact of the 2CC scheme on the section of the route at Exchange Square would not be unacceptable, and that there would be no adverse effects on light (IR 10.46-47).

Impacts on pedestrian and vehicular access to premises

15. The Secretary of State notes that implementation of the 2CC scheme would necessitate some changes in provision for vehicular traffic (both temporary and permanent) and some restrictions affecting pedestrians during the construction stage. However, he is satisfied that access to all properties adjoining the route would be maintained, though not necessarily in the current form, as would access for emergency vehicles and building maintenance (IR10.48–50). He agrees also with the Inspector that there would be significant benefits for pedestrians once the scheme was operational (IR 10.51).

Proposed mitigation measures

16. Under section 14(3AA) of the TWA, the Secretary of State is required to describe the main measures to avoid, reduce and if possible, remedy the major adverse environmental impacts of the scheme. He considers that the main measures to mitigate the adverse impacts of the 2CC scheme are those described in the CoCP and the Environmental Statement, which would be secured through the planning conditions set out in Annex 1 to this letter (IR 10.54-55). As regards the residual impacts which could not be mitigated fully, the Secretary of State agrees with the Inspector’s assessment that some construction phase impacts would be significant, though intermittent and temporary, while there would be no significant adverse impacts in operation of the 2CC scheme (IR 10.57).

Environmental information

17. The Secretary of State agrees with the Inspector that the Environmental Statement (“ES”) submitted with the Order application is adequate (IR 10.59). He is satisfied that the relevant statutory procedural requirements have been complied with and that the ES, taken with the evidence on environmental matters submitted to the inquiry, is sufficient for the purposes of his decision on these applications. The Secretary of State confirms that, in reaching his decision on these applications, he has complied with the requirements of paragraphs (a) to (c) of section 14 (3A) of the TWA relating to the consideration of the ES.

Conditions to be attached to deemed planning permission

18. The Secretary of State agrees with the Inspector that it is necessary to attach conditions to the planning direction on the matters detailed at IR 10.61, subject to the amendments referred to at paragraph 19 below. He agrees also that in the circumstances of this case it is appropriate to set a three year time limit for the commencement of development for the reasons given by the Inspector (IR 10.62). He is satisfied that the conditions set out in Appendix C (subject to the amendments below) meet the tests in DOE Circular 11/95 (IR 10.66).

19. The amendments which the Secretary of State has made to the conditions as set out in Annex 1 to this letter are as follows:

- Condition 5 has been amended so as to apply to the materials used in any external surfaces comprised in the development (as proposed by TfGM) and to allow for approvals to be sought for each phase, rather than before any development commences; and
- a few minor drafting changes have been made and reasons have been inserted.

TfGM's proposals for funding the 2CC scheme

20. The Secretary of State notes the undisputed evidence that the 2CC scheme is fully funded and capable of being implemented as soon as the relevant powers are in place (IR 4.66, 10.68).

Compulsory acquisition matters

21. The Secretary of State agrees with the Inspector that, having regard to the need for and benefits of the 2CC scheme referred to at paragraphs 7 and 8 above, there is a compelling case in the public interest for giving the powers in the Order to acquire and use land, subject to the modifications referred to at IR 10.73. He agrees also that the land and rights sought by TfGM are required for the satisfactory implementation of the scheme (IR 10.70-71). Given that there is unlikely to be any financial impediment to the implementation of the 2CC scheme, as noted above, the Secretary of State is satisfied that the tests in ODPM Circular 06/2004 have been met.

Overall conclusions and decision

22. The Secretary of State agrees with the Inspector that the substantial public benefits of the 2CC scheme in terms of public transport improvements and economic development would clearly outweigh the adverse impacts of the scheme (with the proposed mitigation in place), namely the less than substantial harm to the significance of heritage assets and private losses. Taking into account the policy support for the 2CC scheme and all other matters referred to above, he is satisfied that there is a compelling case in the public interest for authorising the scheme (IR10.98–99). He has therefore decided to make the Order with modifications, and to give the planning direction subject to the conditions set out in Annex 1 to this letter.

23. In addition to the Order modifications referred to by the Inspector at IR 11.1(a), the Secretary has decided to make further minor drafting modifications, which do not materially alter the effect of the Order. He is satisfied that none of the changes to the Order since application would substantially change the proposals such as would require notification to affected persons under section 13(4) of the TWA.

24. The letter conveying the planning direction will issue shortly, at the same time as the Order is made, following the publication of a notice of determination in the London Gazette.

Notice under section 14 of the TWA

25. This letter constitutes the Secretary of State's notice of his determination to make the Order with modifications, for the purposes of section 14(1) (a) and section 14(2) of the TWA. Your clients are required to publish newspaper notices of the determination in accordance with section 14(4) of the TWA.

Challenges to decisions

26. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at Annex 2 to this letter.

Distribution

27. Copies of this letter are being sent to those who appeared at the inquiry and to all the statutory objectors whose objections were referred to the inquiry under section 11(3) of the TWA, but who did not appear.

Yours faithfully,

Martin Woods

CONDITIONS WHICH THE SECRETARY OF STATE INTENDS TO ATTACH TO THE DEEMED PLANNING PERMISSION

Definitions

In these conditions, unless the context otherwise requires:

"the local planning authority" means Manchester City Council;

"the development" means the development authorised by the Order;

"the Environmental Statement" means the documents of that description submitted with the application for the Order on 17 May 2012;

"the Order" means the Transport for Greater Manchester (Light Rapid Transit System)(Second City Crossing) Order 2013;

"phase" means a part, section or stage of the development identified as a phase in the scheme approved under Condition 2;

"present site" in relation to the Cenotaph and St Peter's Cross means the site of each as shown outlined and cross-hatched in blue and red respectively on the plan ref 252636-D-DR-00-100-051 Rev P2;

"structure" means any structure excluding tram lines; and

"the transit system" has the meaning given in article 2(1) of the Order.

Time limit for commencement of development

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date that the Order comes into force.

Reason: To ensure that the development is commenced within a reasonable period of time.

Phasing of development

- 2) The development shall not commence until details of a phasing scheme of construction works have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved phasing scheme.

No phase which includes development on the present site of the Cenotaph in St Peter's Square shall commence until the Cenotaph has been relocated pursuant to planning permission and listed building consent issued for that purpose;

No phase which includes development on the present site of St Peter's Cross in St Peter's Square shall commence until St Peter's Cross has been removed and stored pursuant to planning permission and listed building consent issued for that purpose.

Reason: To ensure that implementation of the development hereby approved is in phases to protect the amenity of the users and occupiers of the city centre, to protect the functioning of the highway network and to safeguard the Cenotaph and St Peter's Cross.

Relocation of St Peter's Cross

- 3) The transit system comprised in the development must not be brought into public use in Cross Street until St Peter's Cross has been relocated in St Peter's Square pursuant to planning permission and listed building consent issued for that purpose.

Reason: To safeguard St Peter's Cross by ensuring that it is placed in its new location prior to operation of the tram system through Cross Street.

Design and external appearance

- 4) No phase of the development shall be commenced until details of the design and external appearance of all structures, including the positions of any poles to support overhead line equipment within that phase have been submitted to and approved in writing by the local planning authority. The erection and/or creation of the structures shall be carried out in accordance with the approved details for that phase.

Reason: To ensure satisfactory external appearance in the interests of visual amenity.

Materials

- 5) No phase of the development shall be commenced until details of materials to be used in any external surfaces within that phase and their external appearance have been submitted to and approved in writing by the local planning authority. The submitted details shall include samples of the materials to be used. The development shall be carried out in accordance with the approved details.

Reason: To control the external materials used in the development and to ensure satisfactory external appearance in the interests of visual amenity.

Landscaping scheme

- 6) No phase of the development shall be commenced until a landscaping scheme specifying details of both hard and soft landscaping in relation to that phase has been submitted to and approved in writing by the local planning authority.

Any such landscaping scheme shall:

- (a) identify any trees having a stem diameter of 75 millimetres or greater intended to be lopped, pruned or felled in connection with the carrying out of development in relation to that phase;
- (b) provide for the works to such trees to be carried out are in conformity with BS5837:2012;
- (c) where trees having a stem diameter of 75 millimetres or greater are to be felled, include provision for their replacement within the next appropriate planting period;
- (d) include provision for the protection, during the period of construction, of all retained mature trees in the vicinity of the development, identifying their location and species and conforming with

BS5837:2012, and a method statement including particulars relating to working methods, temporary protective fencing, location of hoardings and areas prohibited for use by contractors;

- (e) include provision for the replanting of any trees which require replacement in consequence of accidental damage during the construction period, or die or become seriously diseased within 36 months of planting.

The approved landscaping scheme shall be implemented in accordance with the approved details not later than 12 months beginning with the date when the transit system is brought into public use.

Reason: To ensure satisfactory external appearance in the interests of visual amenity and to ensure appropriate provision for trees is made in the landscaping scheme and to ensure that landscaping mitigation is provided in a timely manner.

Code of Construction Practice

- 7) No development shall be commenced until a code of construction practice in relation to the development 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 mitigate expected construction impacts arising from the development.

Environmental mitigation measures

- 8) No phase of the development shall be commenced until a scheme for implementation of mitigation measures specified in the Environmental Statement in relation to that phase has been submitted to and approved in writing by the local planning authority. The mitigation measures shall be implemented in accordance with the approved scheme.

Reason: To mitigate expected environmental impacts arising from the development.

St Peter's Square stop

- 9) The transit system comprised in the development shall not be brought into public use until the replacement stop in St Peter's Square (which forms part of the development) has been brought into use for the purposes of tram services then running through St Peter's Square.

Reason: To ensure the replacement of the existing tram stop in St Peter's Square.

END

ANNEX 2

RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA

Any person who is aggrieved by the making of the Order may challenge its validity, or the validity of any provision in it, on the ground that -

- it is not within the powers of the TWA, or
- any requirement imposed by or under the TWA or the Tribunals and Inquiries Act 1992 has not been complied with.

Any such challenge may be made, by application to the High Court, within the period of 42 days from the day on which notice of this determination is published in the London Gazette as required by section 14(1)(b) of the TWA. This notice is expected to be published within three working days of the date of this decision letter.

CHALLENGES TO DEEMED PLANNING PERMISSION GIVEN IN CONNECTION WITH A TWA ORDER

There is no statutory right to challenge the validity of the Secretary of State's direction that planning permission shall be deemed to be granted for development for which provision is included in the Order. Any person who is aggrieved by the giving of the direction may, however, seek permission of the High Court to challenge the decision by judicial review.

A person who thinks they may have grounds for challenging the decision to make the Order is advised to seek legal advice before taking any action.



Department for
Communities and
Local Government

Mr Tony Mitchell
City Centre Manager
Manchester City Council
Town Hall
Albert Square
MANCHESTER
M60 2LA

Please ask for: Rachael Woodbridge
Tel: 0303 44 48073
Email: Rachael.woodbridge@communities.gsi.gov.uk

Your ref:

Our ref: NPCU/LBC/B4215/70732/70733/70734/70735/70736/70737/70738/70739/70740/70752/70753/70754/70755/70756/70757/70758/70759/70760/70761

Date: 30th September 2013

Dear Mr Mitchell

Transport and Works Act 1992

The Transport for Greater Manchester (Light Rapid Transport System) (Second City Crossing) Order 2013

Planning (Listed Buildings and Conservation Areas) Act 1990
Applications for Listed Building Consent for Manchester Metrolink Second City Crossing
Address: See list below

099372/LO/2012/C1 Midland Hotel, Peter Street, Manchester
099373/LO/2012/C2 14 - 16 Princess Street, Manchester, M1 4NB,
099374/LO/2012/C1 73 - 75 Princess Street, Manchester, M2 4EG,
099375/LO/2012/C1 65 - 71 Princess Street, Manchester, M2 4EG,
099376/LO/2012/C1 Town Hall, Albert Square, Manchester, M2 5DB,
099377/LO/2012/C1 31 Princess Street, Manchester, M2 4EW,
099378/LO/2012/C1 Northern Assurance Building, 9 - 21 Princess Street,
Manchester, M2 4DN,
099379/LO/2012/C1 1 - 7 Princess Street, Manchester, M2 4DF,
099380/LO/2012/C1 1 Albert Square, Manchester, M2 3FU,
099381/LO/2012/C1 86 Cross Street, Manchester, M2 4LA,
099382/LO/2012/C1 62 - 68 Cross Street, Manchester, M2 4JQ,
099383/LO/2012/C1 74 King Street, Manchester, M2 4NJ
099385/LO/2012/C1 34 - 36 St Ann Street, Manchester, M2 7LE,
099386/LO/2012/C1 28 - 34 Cross Street, Manchester, M2 7AQ,

National Planning Casework Unit
Department for Communities and Local Government
5 St Philips Place
Colmore Row
Birmingham B3 2PW

Tel: 0303 44 48050
npcu@communities.gsi.gov.uk

099387/LO/2012/C1 Royal Exchange, Cross Street, M2 7AE,
099388/LO/2012/C1 The Triangle, 37 Hanging Ditch, Manchester, M4 3TR,
099389/LO/2012/C1 City Building, Todd Street, Manchester, M3 1WU
099390/LO/2012/C1 Co-Operative Wholesale Society, Corporation Street,
Manchester, M4 4AH

1. I am directed by the Secretary of State for Communities and Local Government to say that consideration has been given to the report of the inspector, Alan Boyland BEng (Hons) DipTP MICE MCIHT MRTPI who held a public local inquiry into the above Order and associated applications for Listed Building and Conservation Area Consent on 22 – 30 January 2013.
2. A separate letter issued today gives the Secretary for State for Transport's decision to make an Order under the Transport Act 1992 and would authorise the construction and operation of an additional tram line across Manchester city centre as an extension of the existing Manchester Metrolink system. The scheme includes applications for Listed Building Consent at the above addresses. A separate application for Conservation Area Consent has been submitted which is the subject of a separate decision letter.
3. Listed Building consent would, if granted, authorise the attachment of fixing bolt(s) to a number of listed buildings to support overhead line equipment associated with the proposed Manchester Metrolink Second City Crossing Light Rapid Transport System

Inspector's recommendation

4. I enclose a copy of the Inspector's report (IR). References in this letter to paragraphs in the Inspector's report are indicated by the abbreviation IR, followed by the relevant paragraph number. His overall conclusions are in IR 10.89 to 10.91 and he recommends in IR 11.2 that Listed Building and Conservation Area Consent be granted, subject to conditions.

The Secretary of State's decisions

5. The Secretary of State has given careful consideration to your Council's support for the applications, together with the representations submitted by English Heritage and the objections lodged by third parties to several of the applications. The Secretary of State concurs with the Inspector that Listed Building Consent should be granted subject to the conditions specified in Appendix D of the IR.
6. The Secretary of State hereby grants Listed Building Consent for the above works subject to the following conditions:
 1. The works to which this consent relates shall be begun before the expiration of 5 years from the date of this consent.
 2. The works to which this consent relates shall be carried out in accordance with the Supporting Statement (references 252636-LBC-OLE-001 to 019 - Supporting Statement) submitted with the application and stamped as received by the local planning authority on 16 May 2012.

3. Before the works hereby consented commence, a scheme to minimise damage and the risk of damage to the fabric of the building, setting out the precise location of any fixing and including a statement providing details of the method to be used in attaching the overhead line equipment fixings, shall be submitted to and approved in writing by the local planning authority. The scheme shall be accompanied by the following:

- (a) A plan identifying the precise fixing position or positions of the overhead line equipment fixings;
- (b) Survey drawings and photographs of all external parts of the listed building to be affected by the overhead line equipment fixings;
- (c) Details of the overhead line equipment fixings;
- (d) A report detailing the results of a structural assessment and investigations into the condition of the listed building to confirm the suitability of the proposed overhead line equipment fixing positions;
- (e) A method statement for the works; and
- (f) Confirmation that the proposals have been discussed with the building owner prior to submission of the scheme.

The consented works shall be carried out in accordance with the approved scheme.

7. This letter does not convey any consent or approval required under any enactment, byelaw, order, or regulation, other than Section 8 and 17 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

8. A separate Note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged in the High Court.

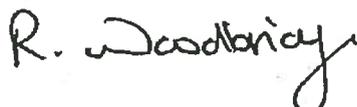
9. Attention is also drawn to the enclosed Note relating to the provisions of the Chronically Sick and Disabled Persons Act 1970.

Availability of the Inspector's report

10. A copy of this letter and the Inspector's report is being sent to the applicant (Transport for Greater Manchester) and the objectors.

11. These documents may also be obtained from the National Planning Casework Unit, 5 St Philips Place, Colmore Row, Birmingham, B3 2PW

Yours sincerely



Rachael Woodbridge
Planning Casework Manager

Encs

Right to Challenge the Decision in the High Court
Chronically Sick and Disabled Persons Act 1970
Inspector's Report