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30 November 2017

Dear Sirs,

TRANSPORT AND WORKS ACT 1992 - APPLICATION FOR THE PROPOSED BLACKPOOL TRAMWAY (BLACKPOOL NORTH EXTENSION) ORDER AND DEEMED PLANNING PERMISSION

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to advise you that consideration has been given to the application made by your clients, Blackpool Borough Council (“the applicants”), on 13 July 2016 for:-
 - a. the Blackpool Tramway (Blackpool North Extension) 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 planning direction would authorise the applicants to construct and operate the Blackpool North Extension (“BNE”) – an extension to the existing Blackpool Tramway system in the Borough of Blackpool, comprising a double-track spur about 600 metres long, from the existing tram line at its North Pier stop extending eastwards along Talbot Road to terminate at Blackpool North railway station. The Order would include powers for the applicants to acquire, compulsorily and by agreement, land and interests in land, powers for temporary use of land, powers to attach equipment and carry out protective works to buildings, powers to operate the transit system and powers to regulate or prohibit traffic. It would also update the operating regime for the existing Blackpool Tramway, currently authorised under the County of Lancashire Act 1984.
3. The applicants did not submit an environmental statement with their application because the Secretary of State made a screening decision on 14 March 2016 that an environmental impact assessment of the proposed works was not required. Nonetheless, the applicants did submit with their application an Air Quality Assessment, Flood Risk Assessment, Heritage Assessment and Transport Assessment which were available to those making representations on the application.

Summary of Secretary of State's decision

4. 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.**

Procedural matters

5. In making this application, the applicants complied with the publicity requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 ("the 2006 Rules"). This included serving copies of the application and the accompanying documents on the persons specified in the 2006 Rules and making the documents available for public inspection. As also required by the 2006 Rules, the applicants displayed and published notices giving information about the application and how to make representations and served notice on those whose rights over land would be extinguished under the Order.
6. The Secretary of State received 14 objections, 27 expressions of support and 2 neutral representations. Three of the objections were subsequently withdrawn. One other included a link to an on-line petition created by the objector, containing 257 'signatures' at the time of its submission to the Secretary of State. The Secretary of State decided that it was unnecessary to hold a public inquiry or hearing into this application as he was satisfied that the issues raised in the objections could be adequately presented and examined through the TWA written representations procedure, between September 2016 and January 2017. This procedure is set out in rule 24 of the 2006 Rules. All of the objections except 6 that were received after the closure of the initial objection period in August 2016 were considered under this procedure. Although the 6 objections received after the closure of the objection period were too late to be considered under the procedure, these objections did not raise any issues which had not already been raised by other objectors.
7. The Secretary of State has considered carefully all the representations that have been made about this application. The main issues which the Secretary of State considers relevant to his decision are addressed below at paragraphs 9 to 29, with a summary of the points made by objectors and the applicants' responses to the objections. The Secretary of State's conclusions are set out at paragraphs 30 to 43.

Purpose of the application

8. In their application, the applicants explained that the aims of the BNE were to improve integration and connectivity between the existing tramway and national rail services at Blackpool North station, encourage modal shift and reduce transport emissions, facilitate regeneration and economic growth by improving transport provision and accessibility to jobs and services and improve access for employers to a larger labour pool, and facilitate urban realm enhancements in Blackpool town centre.

The objections and the applicants' responses

Benefits, costs and value for money of the scheme

9. A number of objectors considered that the BNE would not result in an improvement in transport provision for visitors to Blackpool, and that the costs associated with the scheme were not a justified use of ratepayers' money. Doubts were also raised over the ability of the BNE scheme to generate a profit and concern was raised that purchasing the Wilko building and building a tram terminus at this site would be a financial millstone for generations to come. Instead it was suggested that the funds would be better invested in improvements to the town centre traffic network and the provision of a high quality bus station with a number of objectors suggesting the Wilko site as being an appropriate location for this, being close to the rail station. Objectors considered that such provision could serve a much wider choice of destinations than the tramway system.
10. In response, the applicants pointed to material in the Planning Assessment document accompanying the application, indicating that BNE addressed an identified transport need. The applicants noted that funding for the scheme was predominately via the Lancashire Enterprise Partnership's ("LEP") Local Growth Fund and that as part of the funding approval process the scheme had been subject to a detailed and extensive analysis, and independently reviewed and identified as 'high' value for money. The applicants considered that the local benefits would comfortably exceed the costs of the scheme with BNE offering a fully accessible service that would benefit those with mobility problems, or those with shopping, luggage or young children. It would also enhance connectivity between national rail and the rest of the tramway system. In addition to benefiting visitors, it would benefit residents accessing jobs, services and residential areas.
11. The applicants also noted that once the scheme was completed, it was expected to be profitable as determined from the projected ongoing costs and revenues determined in line with DfT guidance and independently reviewed as part of the LEP's funding appraisal process. It was also noted that purchase of the Wilko building was not related to the scheme and did not form part of the cost of the scheme.
12. The applicants pointed out that it would not be correct to assume that the funding for BNE could simply be diverted to another transport project, such as a bus station. It was noted that the Wilko store site formed part of the Talbot Gateway commercial development, separately funded and costed from BNE. Whilst the tramway terminus would be incorporated into the development, if the tramway did not go ahead, the council noted that it would continue with the commercial development of the Wilko site and that the site would not be used for a bus station. Nonetheless, the Council noted that proposals for a bus hub in the vicinity of the rail station were being developed as a separate scheme to be determined on its own merits in due course.

Inadequate research into patronage of trams using BNE

13. Objectors queried whether sufficient and appropriate research had been carried out by the applicants into potential usage of BNE.
14. The applicants responded by pointing out that extensive research and forecasting in line with DfT prescription and industry standard approaches had been carried out and

validated, and had supported the successful application for funding from the Lancashire Enterprise Partnership Local Growth Fund.

The location of the tram terminus near Blackpool North station

15. Concern was expressed because the proposed tramway terminus location would be further from the station than a previous bus stop which was alleged to have stopped being served due to lack of passenger use. It was therefore considered that the scheme would be even less likely to attract custom.
16. The applicants stated that the scheme is intended to facilitate connectivity and integration between the existing tramway and national rail services. It was noted that the terminus would only be 60 metres from the railway station building, located at the same level as the station and directly accessible from an improved enlarged underpass which would be directly visible from the station entrance/exit. In addition, the applicants considered its location would avoid creating congestion in the station forecourt area, which was the reason stated for the bus stop ceasing to be served. In any case, the bus stop was said to have been serving bus routes heading east, whereas surveys had shown that the majority of rail users wished to travel west to the seafront.

The effect of BNE on traffic congestion, and air pollution

17. Objectors expressed concern that the construction and operation of BNE would add to what they considered to be existing traffic congestion problems along the A584 Promenade in both directions near North Pier, and in the town centre; with particular reference to the passage of trams through the Promenade/Talbot Square signalled junction. Increased motor vehicle congestion would have a consequential effect on air pollution, including on the existing designated Air Quality Management Area around Talbot Square. The Blackpool Licenced Taxi Operators' Association considered that the applicants' traffic analysis was unreliable, in that it underplayed existing levels of congestion as it only took account of the impact of the scheme on weekday morning and afternoon peak periods. It was considered that in Blackpool, the high levels of tourist traffic and pedestrian activity at crossings did not match this pattern and that crossing activity and congestion were worse at other times such as Saturday afternoons. It was also claimed that the Council had a poor record of congestion forecasting, demonstrated by the levels of congestion which had followed the Promenade highway works completed in 2011. Another objector considered that congestion was already an issue at Talbot Road and the BNE would not address this.
18. The applicants' response pointed out that the Transport Assessment accompanying the application provided a comprehensive and detailed assessment of the town centre road network and the predicted effects of introducing the BNE. It had been prepared using industry-recognised methods, appropriate data and modelling software; and complied with the National Planning Policy Framework and Guidance. As such, the applicants considered that it was more robust than the analysis put forward by the Blackpool Licenced Taxi Operators' Association which they noted was not supported by alternative traffic data or independent analysis.
19. As for the signalled junction, trams would pass to or from BNE during a signal phase which was already allocated to pedestrians, so was assessed not to add to the existing delay caused to motor traffic by pedestrians using the crossing. The applicants have acknowledged that following implementation of the Promenade highway works in 2011

(the primary aim of which was to deliver benefits for all highway users) at peak times motor traffic moves slowly along the Promenade, but the applicants assert that this has offered benefits in significantly reducing road casualties, and benefits pedestrians; and will not be worsened by the introduction of BNE including at Talbot Road.

20. With regard to the impact of construction on congestion, the applicants set out that within the Transport Assessment, a proposed construction strategy was included, which would as far as possible result in construction of one on-street section of the BNE at a time, with the works affecting the Promenade taking place after the end of the 2018 Illuminations. A Construction Management Plan, incorporating phasing, would also be developed with the appointed contractor.
21. With regard to air quality, the applicants stated the air quality effects of the scheme have been assessed and the results presented in the Air Quality Assessment which had been submitted with its application. This predicted that changes in air quality would not be significant overall, with only negligible changes.

Safety

22. The view was expressed by objectors that safety for road vehicle users, cyclists or pedestrians, including those with disabilities would be adversely affected, particularly in relation to the proposed 'on-street' running of trams along Talbot Road, and for pedestrians at the Talbot Square/Promenade junction. In addition, an objector considered the scheme ought to be delayed until the final results of the investigation into the November 2016 Croydon tramway incident had been published.
23. In response, the applicants confirmed that they had followed all relevant legislation and guidance in designing the BNE and that this had been reviewed by the Office of Rail Regulation ("ORR") who had not raised any concerns. The applicants also stated that as appropriate for that stage of scheme development, the scheme had been subject to a Stage 1 Road Safety audit and issues identified in that had been addressed. It was noted that the existing tramway already incorporated street-running in Fleetwood, so it would not be novel. As far as the Croydon tramway incident was concerned, the applicants considered that there were sufficient material differences between the incident location and the Blackpool system (including BNE) to render the incident irrelevant to the Blackpool scheme.

Trams and visitors' luggage

24. Concern was expressed about the ability of the trams to cater effectively and safely for visitors with large amounts of luggage, particularly at the peak points of the summer and Illuminations seasons.
25. The applicants confirmed that the trams to be deployed on this scheme would be fully compliant with all necessary legislation and guidance. For user convenience, passengers on the existing trams are asked (by on-board notices) not to block aisles or seats with luggage. However the applicants stated that in addition to seating, the trams have generous internal space available for wheelchairs, mobility scooters, pushchairs and luggage noting that similar trams were used elsewhere on services serving airports or main line railway stations.

Impact on Taxis

26. One of the objectors noted the proposal to reduce the existing taxi rank on Market Street from eight spaces to six and to create a new taxi rank for two spaces in a different location but considered that the new location would not be suitable. It was also considered that the impact of the proposed scheme on taxi operations had not been assessed and that there would be a severe impact on taxi operations in Blackpool town centre due to increased congestion.
27. The applicants stated that following the comment from an objector, they had reviewed their proposals and will retain the existing taxi rank of eight vehicles on Market Street and that this will be able to continue to operate as at present. They had submitted a revised draft Order to the Secretary of State to reflect this. The applicants stated that they considered that the scheme would not have a negative impact on the operation of licenced taxis, rather that public transport choices would be extended. The applicants also stated that they did not consider that the scheme would result in an increase in congestion as the scheme itself would not generate any traffic but could instead reduce the number of car trips due to better integration of train, bus and tram services. They also considered that no evidence had been produced to support the objectors' claims.

Alternative tram extension

28. Instead of the proposed scheme, one objector sought a connection between Blackpool Tramway and the national rail line from Blackpool South station, with a view to alleviating road traffic congestion issues on the corridor running south from Blackpool towards Lytham St. Annes.
29. The applicants had considered a broad range of tram and integrated tram/rail options at an earlier stage, but BNE was identified as a priority. The number of trains and passengers using Blackpool North station is significantly higher than for Blackpool South station, and the journey time to Preston (linking with the rest of the national rail network) quicker from the North station. Therefore the benefits of the objector's alternative proposal would be much lower. The majority of the corridor is also outside the applicants' administrative boundaries, so it would not be within their remit to promote such an alternative scheme. The applicants also noted that this scheme did not preclude future consideration of any other tramway proposal, including one encompassing the South Fylde Line (serving Blackpool South).

The Secretary of State's consideration

30. Careful consideration has been given to all the arguments put forward by, or on behalf of, the parties summarised in the foregoing paragraphs. The Secretary of State's consideration of the points raised is set out in the following paragraphs.

The value for money and benefits of the scheme

31. The Secretary of State notes the aims of the scheme set out in paragraph 8 above, the alternatives that were considered to meet the aims of the scheme and the reasons that the scheme was chosen. The Secretary of State is content that the scheme would bring better integration of public transport services and have accessibility benefits to users, both residents and visitors.

32. The Secretary of State notes that the majority of funding for this scheme is to be allocated by the LEP through the Local Growth Fund based on the appraisals of the scheme that were carried out in accordance with the relevant guidance for such work, and had benefit of independent assurance. The Secretary of State is satisfied that decisions on funding through the Local Growth Fund are for the LEP to take but notes that the BNE scheme is assessed as having high value for money.
33. The Secretary of State notes some objectors' view that funding for BNE would be better spent on provision of a bus station. As the majority of funding for this scheme is to be allocated through the LEP's Local Growth Fund, the allocation of such funding would be for the LEP to decide. Whilst the allocation of LEP funding is not a matter for the Secretary of State, he is satisfied that funding should be made available for the BNE scheme.

Inadequate research into patronage of trams using BNE

34. The Secretary of State is satisfied by the applicants' assurances that its research into forecast usage of BNE had been carried out in accordance with DfT and industry standard methodology.

The location of the tram terminus near Blackpool North station

35. The Secretary of State is content with the applicants' reasoning for locating the tram terminus within the Talbot Gateway development and that this will be within reasonable pedestrian reach of Blackpool North railway station, whilst not being in such a position as to cause traffic congestion on the station forecourt.

The effect of BNE on traffic congestion, and air pollution

36. The Secretary of State recognises that the assessment of the BNE on congestion has been prepared using appropriate methodology and tools and is therefore content with the applicants' conclusions that traffic congestion on the Promenade and in Talbot Road will not be worsened by the operation of BNE. During the construction of BNE, the Secretary of State notes that the applicants' construction strategy is intended to account for periods of peak traffic during the summer and Illuminations, and that a longer duration of construction is a necessary consequence of limiting the area of on-street construction taking place at any one time. The Secretary of State notes the predicted negligible changes in air quality resulting from implementation of BNE and is satisfied that these are not significant enough to outweigh the benefits of the scheme.

Safety

37. The Secretary of State notes that the applicants have worked with the highways authority and the ORR to design the scheme and is content that the applicants have made use of relevant safety legislation and guidance in designing the scheme. The Secretary of State is content that the Croydon tramway incident was not of such a nature as to warrant a moratorium on new tramway developments. However, if there are lessons to be learned of general application to UK tramway systems, it is expected that the applicants (alongside other tramway operators elsewhere) would take due account of these and the final outcome of investigations.

Trams and visitors' luggage

38. The Secretary of State recognises that it is appropriate for tram passengers' safety and convenience to advise people not to block seats or aisles with luggage. However, the Secretary of State is assured by what the applicants say about the design of their trams in relation to providing space for wheelchairs, mobility scooters, pushchairs and luggage and is satisfied that the ORR has not raised concerns with regards to safety.

Impact on taxis

39. The Secretary of State notes the applicants' intention (in the light of objections) to retain the existing size of taxi rank in Market Street, and is content to accept the applicants' proposed post-application amendment to the draft Order to achieve this. The Secretary of State accepts the applicants' assertions that the scheme would not increase congestion or have a negative impact on the operation of licenced taxis.

Alternative tram extension

40. The Secretary of State is content that the preparation of proposals for BNE had been preceded by a study into a number of alternative options and the BNE scheme has been chosen accordingly.

Other matters

41. Supporters of the BNE application noted the enhanced accessibility to be afforded by the extension, with faster, frequent and more accessible transport (including for those with disabilities or heavy luggage) between the North station, the Promenade and beyond, for residents and visitors. The benefits of BNE for regeneration and the environment (particularly atmospheric pollution) were also supported. One of the two neutral representations related to the potential effects of constructing BNE on the local water utility provider, seeking to ensure that their statutory responsibilities were suitably safeguarded. The other referred to the potential effects on the Blackpool Town Centre Conservation Area and the settings of listed buildings. The Secretary of State notes support for BNE and is content that appropriate safeguards for the water undertaker and for heritage assets are in place.

Secretary of State's overall conclusions and decision

42. The Secretary of State has had regard to the matters set out above and is satisfied that there is a compelling case in the public interest for implementing the BNE scheme to secure the transportation and socio-economic benefits referred to in paragraph 8 above. The Secretary of State is accordingly satisfied that, having regard to the Department for Communities and Local Government ("DCLG") guidance dated 29 October 2015 on the compulsory purchase process, there is a compelling case in the public interest for the compulsory acquisition powers in the Order which justifies interfering with the human rights of those with an interest in the land that would be subject to those powers. As for the public sector equality duty, the Secretary of State has had due regard to the need to achieve the statutory objectives referred to in section 149 of the Equality Act 2010. He has concluded that the potential impacts of the proposed development are not likely to result in any significant differential impacts on any of the protected characteristics referred to in section 149.

43. The Secretary of State is satisfied that, subject to:-
- a. deleting article 39 in the application version of the Order (maintenance of approved works, etc.) which was considered unnecessary as the provision is already covered by general legislation;
 - b. the change in taxi rank provision referred to in paragraph 27;
 - c. updating the compulsory acquisition provisions to reflect the coming into force of the relevant parts of the Planning and Compensation Act 2016; and
 - d. some other minor drafting changes,
- which together do not materially alter the effect of the Order, the form of the Order as applied for is appropriate. The Secretary of State is satisfied that none of the modifications made to the Order since application would make a substantial change in the proposals such as would require notification to affected persons under section 13(4) of the TWA.
44. The Secretary of State is content that the planning conditions proposed by the applicant, accompanying their request for deemed planning permission, are relevant and necessary and meet the tests in DCLG's "Planning Practice Guidance, Use of Conditions" and paragraph 204 of the National Planning Policy Framework. He therefore intends to attach to the planning direction these conditions subject to some minor drafting modifications, as set out in Annex 1 to this letter.
45. 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 this determination in the London Gazette.

Notice under section 14 of the TWA

46. 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.

Challenge to decision

47. 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

48. Copies of this letter are being sent to those who made representations on the application which were not subsequently withdrawn.

Yours faithfully,

Natasha Kopala

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

Definitions

In these conditions -

“the local planning authority” means Blackpool Borough Council;

“the development” means the development authorised by the Order;

“the Order” means the Blackpool Tramway (Blackpool North Extension) Order 2017;

“structure” means any structure excluding tram lines; and

“the tram system” has the meaning given in article 2(1) of the Order”

1. Time limit for commencement of development

The development hereby authorised shall not be begun after the expiration of five years from the date that the Order comes into force.

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

2. Design and external appearance

The development hereby authorised shall not be commenced until details of the design and external appearance of all structures, including the positions of any poles to support overhead line equipment, 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, and they shall be retained as such.

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

3. Materials

The development hereby authorised shall not be commenced until details of materials to be used in any external surfaces 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, and shall be retained as such.

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

4. Landscaping scheme

The development hereby authorised shall not be commenced until a landscaping scheme specifying details of both hard and soft landscaping (including street furniture) has been submitted to and approved in writing by the local planning authority.

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

Reason: *To ensure satisfactory external appearance in the interest of visual amenity and to ensure that landscaping mitigation is provided in a timely manner.*

5. Code of Construction Practice

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.*

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 has not been complied with.

Any such challenge may be made, by application to the High Court, within the period of 42 days beginning with 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 3 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 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 and to give the planning direction is advised to seek legal advice before taking any action.