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# Report to the Secretary of State for Transport

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Transport

Date: 15 May 2018

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TRANSPORT AND WORKS ACT 1992

APPLICATION FOR:

**THE MIDLAND METRO**

**(WEDNESBURY TO BRIERLEY HILL LAND ACQUISITION)**

**ORDER 201[X]**

Inquiry Held on 19 March 2019

File Ref: DPI/D3450/18/26

## **CASE DETAILS**

- The application is made under Sections 1 and 5 of the Transport and Works Act 1992, by the West Midlands Combined Authority.
- The proposed Order would be known as the Midland Metro (Wednesbury to Brierley Hill Land Acquisition) Order 201[X].
- The application to the Secretary of State was made on 12 December 2017.
- The Order would authorise the compulsory acquisition of land, and of rights over land, and the temporary use of land, in connection with works for the extension of the Midland Metro tram system, from Wednesbury to Brierley Hill. These works are authorised by the Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005.
- The land falls within the administrative areas of Dudley Metropolitan Borough Council and Sandwell Metropolitan Borough Council.
- At the close of the inquiry, there were 3 remaining duly-made, qualifying objections.

## **SUMMARY OF RECOMMENDATION**

That the Order be made, subject to the changes proposed by the Acquiring Authority, and subject to the completion of the special Parliamentary procedure required by relevant legislation.

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## **ABBREVIATIONS USED IN THIS REPORT**

ALA	Acquisition of Land Act (1981)
BCCS	Black Country Core Strategy
BCR	benefit-to-cost ratio
BHAAP	Brierley Hill Area Action Plan
CCP	Code of Construction Practice
CRT	Canal and River Trust
DAAP	Dudley Area Action Plan
DBDS	Dudley Borough Development Strategy
DMBC	Dudley Metropolitan Borough Council
DPD	Development Plan Document
ECHR	European Convention on Human Rights
ES	Environmental Statement
EZ	Enterprise Zone
GVA	gross value added
LEP	Local Enterprise Partnership
LTP	Local Transport Plan
NPV	net present value
NR	Network Rail
SDG	Street Design Guide
SMBC	Sandwell Metropolitan Borough Council
SoS	Secretary of State (for Transport)
SSAD	Sandwell Site Allocations and Delivery DPD
TWA	Transport and Works Act (1992)
TWAO	Transport and Works Act Order
WBHE	Wednesbury to Brierley Hill Extension
WMCA	West Midlands Combined Authority

## BACKGROUND AND PRELIMINARY MATTERS

### *The Midland Metro Tramway*

1. The Midland Metro is a light-rail tram system serving the West Midlands conurbation. Overall responsibility for the Metro system, and for all other matters relating to the area's public transport network, rests with the West Midlands Combined Authority (WMCA), a statutory body created in 2016 under the Local Democracy, Economic Development and Construction Act 2009<sup>1</sup>. The WMCA's membership includes all of the relevant local authorities and Local Enterprise Partnerships (LEPs) for the area, and the elected Mayor for the West Midlands<sup>2</sup>.
2. The Midland Metro's existing Line 1 opened in 1999, running from Wolverhampton, via West Bromwich, Wednesbury and Bilston, to Snow Hill Station in Birmingham. This line has since been extended to the south, through Birmingham city centre, to New Street Station, and work is currently under way to continue this extension to Centenary Square and Edgbaston. At the northern end, a Transport and Works Act Order (TWAO) was confirmed in 2016 for a further short extension through Wolverhampton city centre.
3. A new Line 2 is planned, running eastwards from Line 1 at Bull Street, to Solihull, Birmingham International Airport and the National Exhibition Centre. This second line would also connect with the proposed national high-speed rail line HS2, at Curzon Street in Birmingham city centre, and at the proposed Birmingham Interchange station, to the east of the city. The first stage of Line 2, known as the Eastside Extension, to Curzon Street and Digbeth, is the subject of a separate TWAO, which is currently under consideration by the Secretary of State (SoS).

### *The Proposed Wednesbury to Brierley Hill Extension*

4. The draft TWAO which is the subject of this report relates to a further proposed extension to Line 1, which would run south and west from the existing line at Wednesbury, then through Dudley Port and Dudley town centre, terminating close to the Merry Hill regional shopping centre at Brierley Hill. This proposed extension, known as the Wednesbury to Brierley Hill Extension (WBHE), would be around 11km (6.75 miles) long, with 17 new stops. The new line would run partly along the route of the former South Staffordshire Railway, and partly on existing urban streets.
5. The same proposed development was the subject of a previous TWAO in 2005, the Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (referred to as 'the 2005 Order')<sup>3</sup>. That Order was confirmed by the SoS on 20 December 2004<sup>4</sup>, and came into force on 22 March 2005. The Order authorised the carrying out of the development, the operation of a tramway on the extended system, and the compulsory acquisition of the necessary land interests and rights.

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<sup>1</sup> Doc WBHE/A9 (WMCA Declaration of Status)

<sup>2</sup> Doc WBHE/F5 (WMCA Statement of Case), para 2.6

<sup>3</sup> Doc WBHE/B2 (the 2005 Order)

<sup>4</sup> Doc WBHE/B6 (SoS decision 20 Dec 2004)

6. The SoS's decision on the 2005 Order included a Direction that planning permission for the proposed WBHE be deemed to be granted. Subsequently, various conditions to that deemed planning permission have been discharged<sup>5</sup>, and implementation works forming part of the development have been carried out<sup>6</sup>. It is not disputed in the present inquiry that those works constitute a material start for planning purposes, and that the deemed planning permission therefore remains extant.
7. The land acquisition powers conferred by the 2005 Order were limited by statute to a period of five years, and these powers therefore expired in 2010.

#### *The Draft Order*

8. The present Draft Order<sup>7</sup> seeks to renew the same powers of compulsory land acquisition as those that were previously conferred by the 2005 Order. These include powers to take possession of land, or to acquire rights over land, either permanently or temporarily.
9. The land parcels and interests affected are identified in Schedules 1 and 3 of the Draft Order, and in the Land Plans<sup>8</sup> and Book of Reference<sup>9</sup> that accompany the application. In total, 354 land parcels are included within the Draft Order, some of these being subject to multiple leases, tenancies or occupancy agreements. The Book of Reference also identifies 17 statutory undertakers or like bodies with rights or easements over the affected land.
10. The Draft Order is promoted by the WMCA, which is the applicant in this inquiry, and which would be the Acquiring Authority if the Order is confirmed. The land lies within the administrative areas of Dudley Metropolitan Borough Council (DMBC) and Sandwell Metropolitan Borough Council (SMBC).
11. The Draft Order does not seek any further deemed planning permission or other authorisation for the new tramway's construction or operation.

#### *The Objections and Other Representations*

12. The statutory period for objections and representations ran initially from 12 December 2017 to 31 January 2018, and was later extended to 30 April 2018. Within that period, 23 objections<sup>10</sup> were received from persons or bodies holding qualifying interests in the land which is subject to the Draft Order. In the same period, four representations of support were also received<sup>11</sup>.

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<sup>5</sup> Docs WBHE/B11, F6, F18, F19, F22 and F23 (Dudley & Sandwell MBCs' discharge of conditions)

<sup>6</sup> Doc WBHE/B10 (Dudley MBC letter confirming material start)

<sup>7</sup> Doc WBHE/A2 (the Draft Order, as submitted Dec 2017)

<sup>8</sup> Doc WBHE/A7 (the Land Plans, as submitted Dec 2017)

<sup>9</sup> Doc WBHE/A8 (the Book of Reference, as submitted Dec 2017)

<sup>10</sup> Docs OBJ 01 – OBJ 23 (qualifying objections received during the extended statutory period)

<sup>11</sup> Docs SUPP 01 – SUPP 04 (supporting representations received during the extended statutory period)

13. Subsequently, 20 of the original objections have been withdrawn<sup>12</sup>. In a number of cases, these withdrawals have followed from WMCA's having entered into unilateral legal undertakings<sup>13</sup> in favour of these and other objectors.
14. In addition, since the end of the extended statutory period, two further objections<sup>14</sup> and three further supporting representations<sup>15</sup> were received. One of the late objections has since been withdrawn<sup>16</sup>. None of these late submissions were made by persons with qualifying land interests.
15. Consequently, at the close of the inquiry, the remaining objections and supporting representations before me are as follows:
  - Duly-made, qualifying objections: 3
  - Late, non-qualifying objection: 1
  - Duly-made, non-qualifying supporting representations: 4
  - Late, non-qualifying supporting representations: 3
16. A full list of all the objections, supporting representations and withdrawals accompanies this report<sup>17</sup>.

#### *Statement of Matters*

17. A Statement of Matters was issued on 17 January 2019, setting out the issues on which the SoS particularly wished to be informed for the purposes of considering the application<sup>18</sup>. I have paid particular regard to this Statement in preparing my report.

#### *Pre-Inquiry Note*

18. On 4 February 2019, I issued a Pre-Inquiry Note, setting out details of various procedural matters relating to the inquiry. Thereafter, the inquiry was conducted in general accordance with these details.

#### *Proposed Changes to the Draft Order*

19. At the opening of the Inquiry, the WMCA tabled an amended version of the Draft Order<sup>19</sup>, together with revised versions of the Book of Reference<sup>20</sup>, and the Land Plans<sup>21</sup>. The reasons for the proposed changes to these documents are set out in WMCA's Opening Submissions<sup>22</sup>.
20. In summary, seven plots of land are proposed to be removed from the Draft Order, either because they are no longer required, or because the necessary

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<sup>12</sup> Docs OBJ 01/WD, 02/WD, 03/WD, 04/WD, 05/WD, 06/WD, 08/WD, 09/WD, 10/WD, 12/WD, 13/WD, 14/WD, 15/WD, 16/WD, 17/WD, 18/WD, 19/WD, 21/WD, 22/WD, and 23/WD (withdrawal letters)

<sup>13</sup> Docs WBHE/F7 - /F14 (unilateral undertakings)

<sup>14</sup> Docs OBJ 24/L and 25/L (late objections)

<sup>15</sup> Docs SUPP 05/L – 07/L (late supporting representations)

<sup>16</sup> Doc OBJ 24/WD (withdrawal of late objection)

<sup>17</sup> Doc GEN 8 (List of objections, support and withdrawals)

<sup>18</sup> Doc GEN 3 (Statement of Matters)

<sup>19</sup> Docs APP/INQ 1.1, 1.2 and 1.3 (revised Draft Order, with and without tracked changes and explanatory comments)

<sup>20</sup> Docs APP/INQ 2.1 and 2.2 (revised Book of Reference, with and without tracked changes)

<sup>21</sup> Doc APP/INQ 3 (revised Land Plans)

<sup>22</sup> Doc APP/INQ 4, para 20 (Opening submissions – re proposed changes to Draft Order)

rights have now been secured by agreement. These are Plots Nos 37, 87, 89, 233, 253, 255, and 307. In addition, Plot 250 has been split into Plots 250 and 250a, because of separate ownerships. These deletions are reflected in proposed changes to Schedules 1 and 3 of the Draft Order, and in minor consequential changes to Articles 3, 6, 7 and 8. The proposed changes are highlighted in the 'tracked change' versions supplied by WMCA.

21. The proposed changes do not seek to add any new land or rights to the Draft Order, nor would they alter the nature of the powers sought, or extend the Draft Order's effects in any other way. The proposed changes therefore seem to me to be uncontroversial, and I have considered the application on the basis of these revised documents.

#### *Compliance with Statutory Requirements*

22. At the inquiry, a folder of compliance documents<sup>23</sup> was tabled by WMCA, together with a separate statement<sup>24</sup> regarding compliance with Rule 13(6) of the Transport and Works (Inquiries procedure) Rules 2004. Rule 13(6) (b) requires notice of the inquiry to be posted in one or more places where public notices are displayed in the area, not later than two weeks before the inquiry's commencement. It was reported that the notices posted at the offices of DMBC and SMBC had not been posted until 12 days and 9 days respectively before the commencement. This was a breach of Rule 13(6)(b).
23. In the circumstances, it was decided that the inquiry should remain open at least until 22 March 2019, to allow the full 2-week period to elapse. In the event, the inquiry remained open until after this date, and it was later confirmed that no further comments of any kind were received in response to the notices in question<sup>25</sup>.
24. The original compliance statement confirms that the remaining statutory requirements relating to public notices, under Rule 13(6) (a) and (c), were complied with. It was also confirmed at the inquiry that all other relevant statutory formalities had been complied with. No matters relating to compliance have been challenged by any party.
25. Having regard to all the circumstances, I am satisfied that no-one is likely to have been prejudiced by the breach of Rule 13(6)(b) in this particular case.

#### *'Open Space' Land*

26. Part of the land which is subject to the Draft Order falls within the definition of 'Open Space', as defined in Section 19(4) of the Acquisition of Land Act 1981 (the ALA). In such cases, S.19(1) of the same Act, and S.12(1) of the TWA, contain specific provisions that must be complied with before the Order can be made. In the present case the effect is that, unless the SoS certifies that he is satisfied that an equal amount of suitable exchange land will be provided, or that the land

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<sup>23</sup> Doc APP/INQ 5.1 (Compliance folder)

<sup>24</sup> Doc APP/INQ 5.2 (Compliance Note re Rule 13(6)(b))

<sup>25</sup> Docs APP/INQ 11 (Further Note re compliance); and GEN 7 (note from TWAOU confirming no further late reps)



involved amounts to less than 250 square yards (209 sq m), the Order must be subject to special Parliamentary procedure.

27. In the present case, the maximum area of Open Space land within the Draft Order (prior to the amendments tabled at the inquiry) was said to amount to 4,083 sq m<sup>26</sup>. WMCA's position, as stated at the inquiry, was that it was continuing to negotiate with the relevant owners, where known, with a view to acquiring the land in question by agreement. It was hoped that this would enable some of the Open Space land to be removed from the Order, possibly reducing the remainder to below the 209 sq m threshold. The Authority would also seek to identify exchange land that could be offered if necessary. Upon the completion of this process, the Authority would then apply to the SoS for a Certificate under either S.19(1)(a) or (b)<sup>27</sup>.
28. I cannot anticipate the outcome of WMCA's further negotiations in this regard, nor the outcomes of any application for a Certificate, or of any special Parliamentary procedure. However, none of the objections which are now before the inquiry raises any issues relating to open space. In the circumstances, I see no reason why this matter need delay consideration of the Draft Order, subject to any further measures which may be required for the purposes of compliance with the relevant statutory provisions in due course. A similar procedure appears to have been adopted by the SoS in considering the 2005 Order<sup>28</sup>. I have therefore considered the Draft Order on this basis.

### *The Inquiry*

29. The inquiry sat for a single day, on 19 March 2019. None of the objectors or other interested parties appeared or was represented at the inquiry.
30. For the reasons outlined above, it was agreed that the inquiry should remain open after this date, until at least 22 March, to allow for any further matters arising from the late posting of public notices. In addition, WMCA requested permission to submit the Minutes of the next meeting of the Authority's main Board, to be held on 22 March 2019, when these became available. I considered that the submission of these Minutes would assist the inquiry, and therefore agreed to this request<sup>29</sup>. The Minutes in question were received on 29 March 2019<sup>30</sup>, together with an accompanying note<sup>31</sup>. The inquiry was formally closed on 1 April 2019<sup>32</sup>.
31. I made unaccompanied visits to view various parts of the Order lands on 18 and 20 March. At the inquiry, the WMCA confirmed that they were content with this procedure. No objector has requested an accompanied visit. I am satisfied that I have seen everything necessary to enable me to judge the objections and make my recommendation.

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<sup>26</sup> Doc WBHE/F5 (WMCA Statement of Case), para 9.12

<sup>27</sup> Doc APP/6.1 (Mr Fowler's proof), paras 3.15 – 3.16; *and* APP/INQ 10 (Closing submissions), paras 90 - 92

<sup>28</sup> Doc WBHE/B6 (SoS decision on the 2005 Order), paras 43-45 and 63

<sup>29</sup> Doc GEN 6 (Inspector's note dated 22 March 2019)

<sup>30</sup> Doc APP/INQ 12.2 (WMCA Board minutes, 22 March 2019)

<sup>31</sup> Doc APP/INQ 12.1 (note re Board minutes)

<sup>32</sup> Doc GEN 9 (Closure letter)

32. Prior to the inquiry, and up to its close, I was assisted by the Programme Officer, Melanie Owen-Roberts, whose contribution I hereby acknowledge with thanks. Ms Owen-Roberts also compiled the Documents List. For the avoidance of doubt, she has otherwise taken no part in the preparation of my report.

## **THE CASE FOR THE WEST MIDLANDS COMBINED AUTHORITY**

33. The WMCA's case is set out principally in its Statement of Case<sup>33</sup>, and the Concise Statement of Aims<sup>34</sup>, and in the proofs of evidence of the Authority's six witnesses<sup>35</sup>, including two supplementary proofs from Mr Peter Adams and one from Mr David Carter. These are accompanied by a large number of supporting documents, including in particular a set of Business Case reports (Commercial, Financial, Strategic, Management and Economic) dated November 2017<sup>36</sup>, and also an equivalent set entitled Final Business Case, which is updated to February 2019<sup>37</sup>.

### *Objectives of the proposed scheme*

34. The proposed WBHE tramway extension has the following core objectives:
- supporting regeneration in an area of high deprivation, through improved connectivity to areas of opportunity;
  - supporting economic development, by improving the accessibility of major employment and residential sites;
  - enhancing the area's prosperity, by improving access to employment, and widening the workforce catchment area for local businesses;
  - improving the education and skills base, by providing better access to universities and colleges throughout the region;
  - encouraging modal shift from the private car, by delivering a high quality and reliable public transport service;
  - supporting an integrated transport network, with seamless interchange between transport modes;
  - and delivering a high-quality transport service in a manner that supports local environmental and safety benefits.

### *Economic and social issues affecting the Black Country area*

35. The Black Country area, including the Boroughs of Dudley and Sandwell, suffers from a range of inter-related economic and social problems. Historically, the whole of the West Midlands depended heavily on its industrial heritage, especially in manufacturing, engineering and mining. The decline of these industries since the second world war has been marked. In some parts of the region, the lost

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<sup>33</sup> Doc WBHE/F5 (WMCA Statement of Case)

<sup>34</sup> Doc WBHE/A4 (Concise Statement of Aims)

<sup>35</sup> Docs APP/P1.1 – P6.2 (WMCA proofs)

<sup>36</sup> Docs WBHE/D3, D4 and 4A, D5 and 5A, D6 and 6A, and D7 and 7A (Business Case reports, Nov 2017)

<sup>37</sup> Docs WBHE/D3A and 3B, D4B and 4C, D5B and 5C, D6B and 6C, and D7B and 7C (Final Business Case reports, Feb 2019)

jobs have been replaced with modern, service-sector employment, but there remains a lack of economic dynamism, especially in the Black Country.

36. In Dudley and Sandwell in particular, unemployment rates have remained consistently above both the national and regional averages. Allied to this are related problems of low incomes, skills, and educational attainment. As a result, large parts of both boroughs fall within the 10% most deprived in the UK<sup>38</sup>.

#### *Transport and accessibility issues*

37. Against this background, WMCA sees transport and accessibility as an important contributing factor. Dudley and Brierley Hill have no existing railway stations serving their town centres, nor have they yet benefited significantly from the Midland Metro's Line 1 tramway. Local roads in Dudley and Sandwell Boroughs are mostly urban in nature and heavily congested. All of this makes the on-road bus services relatively slow and unreliable. As a result, travel between Dudley, Brierley Hill and larger centres such as Birmingham and Wolverhampton is difficult and time-consuming.
38. This is seen as a barrier to economic growth and prosperity in several ways. Local residents are restricted in their ability to access better quality jobs, education, leisure and healthcare facilities. Shops and businesses of all kinds have a restricted catchment area, both for attracting custom and for staff recruitment. Development opportunities are difficult to market, and take-up is slow. Tourist attractions such as Dudley Zoo and the Black Country Museum suffer reduced trade. The public perception of poor access and outdated transport facilities contributes to a negative image. The interrelated nature of these problems makes them self-perpetuating<sup>39</sup>.
39. Some parts of the West Midlands are expected to benefit economically from HS2, due to the greatly improved communications with London and the South East, but without further improvements to connectivity across the region itself, those benefits will not extend to the Black Country.

#### *Regeneration initiatives and proposals*

40. A number of major developments are either approved or in the pipeline, but are dependent on the WBHE tramline for their commercial viability<sup>40</sup>:
- the Brierley Hill Business and Innovation Enterprise Zone (EZ), also known as 'DY5', with scope for up to 7,000 jobs, including over 370 new business start-ups, and a Gross Value Added (GVA) uplift for the area of £590m per annum;
  - the proposed Black Country Garden City, of up to 45,000 new homes, backed by the Black Country LEP and the Homes and Communities Agency, with an estimated investment value of £6bn;

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<sup>38</sup> Docs WBHE/F5 (Statement of Case), paras 5.42 - 5.45; *and* APP/P1.1 (P Adams proof), paras 4.1 - 4.8; *and* APP/P5.1 (P Ellingham proof), paras 3.9.1 - 3.9.3; *and* WBHE/D5/B (Final Business Case - Strategic), sections S1 and S5

<sup>39</sup> Docs WBHE/F5 (Statement of Case), paras 5.12, 5.13, 5.48 - 5.52, and 6.2; *and* APP/P1.1 (P Adams proof), paras 4.10 - 4.17; *and* WBHE/D5/B (Final Business Case - Strategic), section S7

<sup>40</sup> Docs WBHE/F5 (Statement of Case), paras 5.2 - 5.4 and 5.33 - 5.41; *and* APP/P1.1 (P Adams proof), paras 7.15 - 7.23; *and* WBHE/D5/B (Final Business Case - Strategic), section S6; *and* Docs WBHE/D40 and D41 (support letters)

- the Merry Hill Masterplan, which seeks to link together opportunities at the existing shopping centre, Brierley Hill town centre, and the Waterfront office park, to provide 3,000 new homes and 300,000 sq m of commercial space;
  - the 'Daniels Land' redevelopment scheme at Merry Hill, for 98 apartments and over 11,000 sq m of offices;
  - the Portersfield scheme, in Dudley town centre, which would replace the derelict Cavendish House with new homes, shops and leisure facilities, at a cost of £82m;
  - the planned University Centre Dudley, which will offer higher-levels skills training in technology-based subjects in partnership with the West Midlands' existing universities;
  - a new national innovation centre for Very Light Rail, located in Dudley, close to the planned university-style campus;
  - planned extensions and enhancements to the existing Dudley Zoo and Black Country Living Museum;
  - proposed redevelopment and regeneration around a transport hub at Dudley Port.
41. There is concern that without the proposed WBHE, these projects will continue to stall, and that the regeneration that the region needs will fail to take off.

*Policy support*

42. The need for the WBHE is recognised and supported in the relevant planning policies for the area, at both strategic and local levels. The Black Country Core Strategy (the BCCS), adopted in February 2011, sets out the overall strategic planning framework for the Black Country sub-region, comprising Dudley, Sandwell and Walsall MBC's and the City of Wolverhampton<sup>41</sup>. The plan seeks to stimulate economic growth and regeneration, by focussing employment and housing development into Strategic Centres and Regeneration Corridors, as set out in Policy CSP1.
43. One of these corridors is Dudley-Brierley Hill-Stourbridge, based around a high-capacity, strategic rapid transit 'spine', and BCCS Policy TRAN1 identifies the need for an extension of the Metro network in this corridor as a key transport priority, to improve connectivity throughout the sub-region. Brierley Hill is identified as one of the strategic centres, with the opportunity to attract further major development, utilising the proposed new rapid transit line to improve integration between the High Street, the Merry Hill centre, and the Waterfront office and leisure campus. No major change to this planning strategy is currently envisaged in the emerging Review<sup>42</sup>.
44. The same overall strategy, including the WBHE, is reflected in the more detailed Development Plan Documents (DPDs) for the various constituent parts of the Black Country area. These include the Dudley Borough Development Strategy

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<sup>41</sup> Docs WBHE/E23 (BCCS), pp 19-38, 50-54 and 116-122; *and* WBHE/E25 (BCCS Appx 2), pp 1-4, 69-75 and 82-87

<sup>42</sup> Doc WBHE/E26 (Draft BCCS Review: Issues and Options, June 2017)

(the DBDS), adopted in March 2017<sup>43</sup>, the Dudley Area Action Plan (the DAAP), also of March 2017<sup>44</sup>, the Brierley Hill Area Action Plan (the BHAAP), adopted in August 2011<sup>45</sup>, the Sandwell Site Allocations and Delivery DPD (the SSAD), adopted December 2012<sup>46</sup>, and the West Bromwich Area Action Plan (WBAAP) of December 2012<sup>47</sup>. In all cases, the policies of these DPDs are designed to support and complement the BCCS approach of concentrating new development in the key corridors, supported by new transport infrastructure. As such, the WBHE is seen as integral to the area's development plan<sup>48</sup>.

45. The statutory local transport plan (LTP) is the 'West Midlands LTP (2011 -2026): Making the Connections'. The accompanying Implementation Plan<sup>49</sup> shows that the LTP proposes a 'Black Country rapid transit spine', linking together the sub-region's main centres, starting with Wednesbury to Brierley Hill. Beyond this, the LTP envisages and supports a further rapid transit network serving significant economic development areas in the regeneration corridors.
46. The principal economic development strategy for the area is the Black Country Strategic Economic Plan, published by BCLEP in March 2017. The plan sets out a strategy to transform the economy of the sub-region, with an emphasis on high-value manufacturing, increased productivity, enhanced competitiveness, and skills. Major improvements in transport and connectivity are seen as an essential requirement for achieving these aims. Investment in a high-quality mass transit system, including the extension of the Metro to Brierley Hill, is seen as a regional priority<sup>50</sup>.

#### *Central Government support*

47. In November 2016, the Government entered into a Devolution Agreement with the local authorities and LEPs of the then nascent WMCA<sup>51</sup>, which paved the way for the creation of the Combined Authority, and set out in broad terms the scope of its powers, responsibilities and funding arrangements. The Agreement also recorded the parties' shared view as to the West Midlands' most pressing needs and priorities, and the Government's commitment to supporting the WMCA in tackling these. Arrangements were put in place for the creation of a £1bn investment fund, with Government funding of £36.5m a year over a 30-year period.
48. Amongst other things, the 2016 Devolution Agreement identified the need for the new WMCA to deliver improved outcomes in a range of areas, covering jobs, training, homes, and transport, and in particular to take advantage of the opportunities arising from HS2. In relation to transport, the need was for links that would be faster, more convenient and more integrated, both locally and

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<sup>43</sup> Doc WBHE/E27 (the DBDS)

<sup>44</sup> Doc WBHE/E28 (the DAAP)

<sup>45</sup> Doc WBHE/E29 (the BHAAP)

<sup>46</sup> Doc WBHE/E30 (the SSAD)

<sup>47</sup> Doc WBHE/F21 (the WBAAP)

<sup>48</sup> Doc APP/P5.1 (P Ellingham proof), paras 6.2.16 – 6.2.58

<sup>49</sup> Doc WBHE/E1 (W Midlands LTP implementation Plan), pp 23, 55-56, and 85-86

<sup>50</sup> Doc WBHE/E34 (Black Country Strategic Economic Plan), section 7.6

<sup>51</sup> Doc WBHE/D1 (Devolution Agreement, Nov 2016)

nationally. In this context, the proposed WBHE is specifically named, and the Agreement states that the Government will support the work being done to develop a delivery plan for the project.

49. At the same time, the Devolution Agreement also endorsed the aims of the Midlands Engine for Growth<sup>52</sup>, a Government initiative for promoting economic growth in the region, and the HS2 Growth Strategy<sup>53</sup>, aimed at maximising the new high-speed line's economic benefits by harnessing its capability to support local regeneration programmes. The WBHE scheme is identified as a key element in the latter.
50. In November 2017, a Second Devolution Deal was entered into by the Government, with the now formally-constituted WMCA, and the newly-elected West Midlands Mayor<sup>54</sup>. This second agreement committed the Mayor and WMCA to produce a local industrial strategy, with the aim of promoting growth, and committed the Government to various steps to support the delivery of that strategy, including a new West Midlands 'Funding for Growth Programme', to explore innovative funding mechanisms. Amongst other measures, the Deal provides for the WMCA to receive £250m from the Transforming Cities Fund, to be spent on local transport priorities including the WBHE tramway. In addition, the Government undertook to facilitate discussions between WMCA and Network Rail regarding the transfer of ownership of non-operational railway land needed for the WBHE.

#### *The WBHE scheme proposals*

51. The WBHE route<sup>55</sup> is proposed to start from a new 'delta' junction with the existing Metro line, adjacent to the Wednesbury tramway depot. The first section would run south-westwards on a new segregated track, along the disused South Staffordshire Railway corridor. In this section there would be seven stops, serving the residential and employment areas around Gold's Hill, Great Bridge, Horseley Heath, Tipton and Dudley Port. The last of these, at Dudley Port, would provide an interchange between the Metro system and the national railway network, and park-and-ride facilities.
52. The new tramway would then leave the former railway corridor, to take an on-street course through Dudley town centre. The first of three stops in this area, at Station Drive, would provide access to Dudley Castle and Zoo, and the Black Country Museum. The second, at Dudley Bus Station, would offer easy access to the High Street, the Churchill Shopping Centre, and the planned Portersfield development, and also an interchange with the local bus network. The third, at Flood Street, would provide access to the south of the town centre. Within the town centre, trams would share the road surface with other traffic but would have priority.

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<sup>52</sup> Doc WBHE/E2 (Midlands Engine for Growth)

<sup>53</sup> Docs WBHE/E19 (HS2: Unlocking the Benefits, Centro, 2013); *and* WBHE/E14 (HS2: Get Ready, DfT 2014); *and* WBHE/E7 (HS2 Connectivity Programme; Gtr Birmingham & Solihull LEP, 2015)

<sup>54</sup> Doc WBHE/D2 (2<sup>nd</sup> Devolution Deal, Nov 2017)

<sup>55</sup> Docs WBHE/F5 (Statement of Case), paras 6.3 - 6.6; *and* APP/P1.1 (P Adams proof), paras 6.10 - 6.12; *and* APP/P3.1 (I Collins proof), paras 6.4.1 - 6.4.2; *and* APP/3.3 (I Collins appendices), appx 1 – Route Alignment Drawings

53. From here, the route would re-join the old railway corridor, with a further four stops serving the extensive series of industrial estates to the south, before turning into Brierley Hill, with dedicated stops for the Waterfront, Merry Hill, and the town centre.
54. Those sections of the new tramway that would run along the former railway corridor would be designed to allow for the same route to be shared in the future by heavy-rail freight tracks<sup>56</sup> (although Network Rail has no current plans for such a development).
55. The tramway would also be served by a fleet of '3<sup>rd</sup> generation' new and refitted tramcars that would be capable of battery-powered operation, removing the need for overhead catenary apparatus in sensitive or restricted sections of track<sup>57</sup>.
56. The detailed design of the necessary new structures, highway works, tramstops, platforms, surfacing materials, lighting and landscaping are to form part of the reserved matters and other details to be submitted pursuant to the conditions of the existing planning permission<sup>58</sup>.

#### *Benefits of the scheme*

57. The new WBHE tramway would link all the major centres within the Wednesbury-Brierley Hill corridor, providing direct services via the existing Metro Line 1 to both Birmingham and Wolverhampton city centres. Interchange facilities with national rail would be available at Birmingham or Dudley Port, and with local buses at Dudley town centre and Brierley Hill. Connections to HS2 will become available at Curzon Street (subject to approval of the parallel TWAO for the Eastside Extension).
58. WBHE services are planned to operate on seven days a week, from 5am to midnight on most days, with a frequency of up to four services an hour during the day<sup>59</sup>. Compared to the existing bus services, average journey times would be approximately halved<sup>60</sup>. Compared to the private car, the tram would offer congestion-free travel on a segregated track, with reliable timetabling and predictable journey times, and without the additional costs and delays of the need for car parking.
59. Overall, the proposed new tramway would offer Black Country residents faster and easier access to all of the region's main employment areas, universities and colleges, shopping centres, hospitals, and leisure facilities<sup>61</sup>. Higher-quality jobs, skills and training opportunities would be brought within the reach of many more people. As a result, aspirations, achievements and living standards in the area

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<sup>56</sup> Docs WBHE/F5 (Statement of Case), para 6.7; *and* APP/P3.1 (I Collins proof), paras 6.4.3 and 6.14.1 – 6.14.3

<sup>57</sup> Docs WBHE/F5 (Statement of Case), para 6.14; *and* APP/P1.1 (P Adams proof), paras 6.15 - 6.17; *and* APP/P3.1 (I Collins proof), para 6.17.3

<sup>58</sup> Docs WBHE/F5 (Statement of Case), paras 6.11 – 6.15; *and* APP/P1.1 (P Adams proof), paras 6.15 - 6.17; *and* APP/P3.1 (I Collins proof), paras 6.15.1 – 6.18.1

<sup>59</sup> Doc App/P2.1 (D Carter proof), para 3.3.14 and Table 1

<sup>60</sup> Docs WBHE/D5/B (Final Business Case - Strategic), paras 7.47 – 7.50; *and* WBHE/F5 (Statement of Case), paras 5.50 – 5.52; *and* APP/P1.1 (P Adams proof), paras 7.2 – 7.4

<sup>61</sup> Doc WBHE/F5 (Statement of Case), para 5.17

would rise, and the Black Country's demographic profile would start to reflect these changes.

60. The WBHE would attract around 4.9m additional passengers per year to the Metro system in the first year of operation, rising to 5.4m within 10 years of opening<sup>62</sup>. The new users would include a significant proportion who would otherwise have travelled by car, and a large number of car journeys would therefore be taken off the road<sup>63</sup>. This would have multiple benefits in terms of reduced congestion, accidents<sup>64</sup>, and air pollution. The quality of life in the area would be thus improved, and the Black Country's overall image would rise to reflect this.
61. Local businesses of all kinds would benefit by being able to draw trade from a wider catchment area, and recruit staff from a larger labour pool<sup>65</sup>. This would give a boost to the Black Country's economy, and stimulate new business start-ups and new investment. Land values would rise. With this combination of better accessibility, rising demand, and enhanced business confidence, many of the area's planned development projects would become financially viable, and would start to deliver the new homes, jobs, premises and facilities that the Black Country has lacked<sup>66</sup>. The WBHE would therefore be a catalyst for new development and regeneration.

#### *Economic Impact Assessment*

62. An Economic Impact Assessment of the WBHE was carried out by Lichfields, for a consortium of Black Country authorities, in August 2017. The consultants sought to identify and quantify the growth-oriented benefits arising from unlocking development values and generating new economic activity<sup>67</sup>.
63. The study found that during a 6.25-year construction phase, the WBHE would generate around 393 jobs per year in direct employment, and 275 indirect and induced jobs a year resulting from the local multiplier. Together these would generate about £239m of GVA during this stage<sup>68</sup>.
64. After completion, the Metro extension is estimated to bring forward an additional 4,890 new homes, 124,800 sq m of offices, 101,300 sq m of industrial space, and 5,300 sq m of leisure facilities, which would otherwise not be built<sup>69</sup>. Taking account all post-construction impacts, the WBHE would be capable of supporting the creation of 4,420 net additional permanent jobs within the immediate corridor, and 2,950 jobs in the wider West Midlands region. With the addition of indirect and induced jobs on top of these, the overall employment gain is

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<sup>62</sup> Docs WBHE/F5 (Statement of Case), paras 11.56 – 11.59; *and* APP/P2.1 (D Carter proof), para 3.4.3; *and* WBHE/D7/B (Final Business Case – Economic), para 3.14

<sup>63</sup> Docs WBHE/F5 (Statement of Case), paras 11.63 – 11.64; *and* APP/P2.1 (D Carter proof), paras 3.4.54 and 3.4.60

<sup>64</sup> Doc WBHE/F5 (Statement of Case), para 5.79; *and* APP/P2.1 (D Carter proof), paras 3.4.60 - 3.4.61

<sup>65</sup> Doc WBHE/F5 (Statement of Case), para 11.68

<sup>66</sup> Doc APP/P2.1 (D Carter proof), paras 3.4.29 – 3.4.32

<sup>67</sup> Docs WBHE/F5 (statement of Case), paras 5.7 - 5.11; *and* APP/P2.1 (D Carter proof), paras 3.4.33 – 3.4.40; *and* APP/P1.1 (P Adams proof), paras 7.19 – 7.23

<sup>68</sup> Doc WBHE/D28 (Lichfields report), paras 5.1– 5.9

<sup>69</sup> Doc WBHE/D28 (Lichfields report), Table 6.1



estimated to be in the region of 9,950 jobs, generating a GVA of around £17bn<sup>70</sup>. Over a period of 25 years following completion, the WBHE is forecast to nearly double the study area's overall economic output, from £14.4 bn to £28.6 bn<sup>71</sup>.

### *Business Case*

65. The WBHE scheme has been subjected to a rigorous value-for-money appraisal, using a bespoke version of the 'five-case model' as set out in HM Treasury's 'Green Book Appraisal and Evaluation' methodology. The model was adapted in some respects to ensure proportionality, given that the necessary powers to carry out and operate the scheme have already been granted, through the 2005 Order, and funding has already been allocated<sup>72</sup>.
66. The original suite of five Outline Business Case documents (Strategic, Economic, Financial, Commercial, and Management) was produced in summer 2017, for the purposes of funding approval. The Full Business Case reports<sup>73</sup> were produced in November 2017 and submitted with the present TWAO application. In February 2019 these were updated to take account of revised costings and other new information, to become the Final Business Case<sup>74</sup>. Together, these five final reports show that the WBHE project is underpinned by a sound analysis and robust procedures<sup>75</sup>.
67. The latest costings, based on further design work, and with inputs from contractors, suppliers and operators, show an estimated overall capital cost of £449.5m<sup>76</sup>. This figure includes a contingency allowance for risk, including the risk of inflation, and is net of any 'value engineering' savings that may be achieved in due course. Further adjustments for optimism bias have also been taken into account<sup>77</sup>.
68. The final Economic Case includes a wide-ranging cost-benefit analysis, which shows a net present value (NPV) of £249m, and an overall benefit-to-cost ratio (BCR) of 2.03<sup>78</sup>. This falls within the range defined as 'high' value for money<sup>79</sup>, showing that the benefits significantly outweigh the total of its monetary costs and any disbenefits<sup>80</sup>.

### *Funding and delivery*

69. The revised capital cost estimate of £449.5m is to be met through a combination of Central Government grant, devolved local funding, LEP Local Growth Funds,

<sup>70</sup> Doc WBHE/D28 (Lichfields report), Tables 6.2 and 6.3

<sup>71</sup> Doc WBHE/D28 (Lichfields report), 'infographic summary' diagram

<sup>72</sup> Doc APP/P2.1 (D Carter proof), paras 2.1.1 – 2.1.7

<sup>73</sup> Docs WBHE/D3, D4 and 4A, D5 and 5A, D6 and 6A, and D7 and 7A (Business Case reports, Nov 2017)

<sup>74</sup> Docs WBHE/D3A and 3B, D4B and 4C, D5B and 5C, D6B and 6C, and D7B and 7C (Final Business Case reports, Feb 2019)

<sup>75</sup> Doc A Doc APP/P2.1 (D Carter proof), paras 2.2.1 – 2.4.3; *and* PP/P1.1 (D Adams proof), paras 7.8 – 7.14

<sup>76</sup> Docs WBHE/D7/B ((Economic Case – final), Table 4.1 and para 4.5; *and* APP/P1.4 and P1.5 (P Adams 1<sup>st</sup> Supp) paras 2.1 – 2.2 and Appx 1 (WMCA Investment Board), section 5;

<sup>77</sup> Doc APP/P2.4 (D Carter Supp), paras 2.2.5 – 2.2.11

<sup>78</sup> Doc WBHE/D7/B (Economic Case – final), Tables 6.1 - 6.3

<sup>79</sup> Doc WBHE/D24/A (DfT Value for Money framework) p25 - Box 5.1; *and* APP/P2.4 (D Carter Supp), para 2.2.3

<sup>80</sup> Doc APP/P2.4 (D Carter Supp) paras 2.2.20 – 2.2.22

and new borrowing<sup>81</sup>. This overall funding package was approved by the WMCA's Investment Board on 11 March 2019 and by the Authority's Main Board on 22 March 2019<sup>82</sup>. The decisions taken at that meeting, based on the revised cost estimates, supersede the figures presented in the Funding Statement submitted in December 2018.

70. The largest element, of £207m, will come from the Transforming Cities Fund; this forms part of the larger sum allocated to WMCA under the Second Devolution Deal, in November 2017. A further £103m is to come from monies allocated to WMCA under the HS2 Connectivity Package. Another £400,000 has already been provided by BCLEP, as part of Local Growth Funding. The remaining £139.1m is to be raised by borrowing, secured against future Metro revenues, in accordance with the 'Prudential Code' for public authority finances.
71. Planning permission already exists, in the form of the 2005 Order<sup>83</sup>. All necessary pre-commencement planning conditions are agreed to have been discharged<sup>84</sup>, and those remaining can be dealt with during or after the construction stage.
72. WMCA has entered into a Memorandum of Understanding with the Canal and River Trust (CRT), dated 12 November 2018, with regard to any works relating to inland waterways which may require CRT's consent<sup>85</sup>. The Memorandum commits both parties to work together in a spirit of partnership and co-operation, in accordance with the procedures set out therein. CRT has subsequently withdrawn its objection to the Order<sup>86</sup>. No significant difficulties are anticipated in respect of waterways matters.
73. Apart from matters of land acquisition, there are no other known legal, technical or other impediments to the implementation of the WBHE. Design work is continuing, with a view to the earliest possible start on construction, once the outstanding acquisition issues are resolved. The scheme is therefore deliverable, once the acquisition of the necessary interests and rights has been completed.

#### *Impacts and mitigation*

74. The Environmental Statement (ES)<sup>87</sup> submitted prior to the 2005 Order identified a small number of minor adverse impacts, as well as some positive ones. The adverse effects included potential impacts on traffic movements, noise/vibration, townscape, ecology, and archaeology. In most cases however, these were seen as capable of being overcome by suitable mitigation measures. Where residual impacts were likely, these were assessed as being slight to moderate.

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<sup>81</sup> Docs WBHE/A6 (Funding Statement); *and* WBHE/D4/B (Financial Case – final), paras 3.1 – 3.11; *and* WBHE/F5 (Statement of Case) paras 11.38 – 11.49; *and* APP/p1.1 (p Adams proof) paras 8.1 – 8.11; *and* APP/p1.4 (P Adams 1<sup>st</sup> Supp) paras 2.1 – 2.6; *and* APP/p1.6 (P Adams 2<sup>nd</sup> Supp) paras 2.1 – 2.6

<sup>82</sup> Docs APP/INQ/12.1 (WMCA Note dated 29 March 2019); *and* APP/P1.4 and 1.5 (P Adams 1<sup>st</sup> Supp) para 2.3, and Appx 1 (report to Investment Board); *and* APP/P1.6 (P Adams 2<sup>nd</sup> Supp) para 2.2, and Appxs 1 and 2 (Investment Board Minutes and report to Main Board)

<sup>83</sup> Doc WBHE/B2 (the 2005 Order)

<sup>84</sup> Docs WBHE/B11 and F6 (discharge of pre-commencement conditions)

<sup>85</sup> Doc WBHE/B13 (CRT Memo of Understanding)

<sup>86</sup> Doc OBJ24/L/WD (CRT withdrawal)

<sup>87</sup> Doc WBHE/B9 (Environmental Statement, 2003)

75. During construction, the ES identified that there were likely to be additional temporary impacts in terms of disruption, noise, dust, and visual impact, but it was considered that mitigation could be devised to reduce these to levels that would be acceptable for the duration of the works. WMCA considers itself committed to implementing the ES recommendations in full.
76. Since then, as the WBHE scheme has evolved in more detail, appropriate mitigation has been incorporated wherever possible, by way of detailed design, landscaping, minor modifications to the track alignment, revised traffic layouts, and other similar measures<sup>88</sup>. The acceptability of these mitigation measures has not been disputed by the relevant planning authorities.
77. In April 2018 an Addendum to the ES was submitted<sup>89</sup>, to support WMCA's application for the discharge of Condition 2. The Addendum considers the effects of certain proposed minor variations from the original track alignment. It found no new adverse effects, other than in two cases where new development had taken place since 2005. In all cases the report found the impacts capable of adequate mitigation. The Addendum has been accepted by DMBC and SMBC<sup>90</sup>.
78. Impacts both during and after construction are also limited by the need to comply with the relevant conditions of the planning permission granted by the SoS in 2004<sup>91</sup>. Condition 7 requires compliance with a Code of Construction Practice (CCP). Part 1 of the CCP<sup>92</sup> has since been approved by DMBC and SMBC<sup>93</sup>, and provides the relevant authorities with additional detailed controls over a range of construction-related impacts. More detailed 'Part 2' CCPs for each stage of the route will be submitted before construction work on each stage commences.
79. Other planning conditions provide for controls over design and external appearance, materials, landscaping, and various other matters. In addition to these, WMCA has committed itself to adhere to the Midland Metro Street Design Guide (SDG), prepared by its predecessor body Centro, in 2005. The SDG has been approved by DMBC and SMBC, and contains detailed design and landscaping principles for the tramstops, termini, and other running areas.
80. On 11 March 2019, WMCA announced details of a support package for small businesses affected by the WBHE construction works in Dudley town centre<sup>94</sup>. The package offers financial assistance of up to £17,047, towards business losses incurred during and due to the tramway works. Firms with a turnover of up to £500,000 are eligible for the scheme, with the smallest firms qualifying for relief at a rate of up to 70% of any lost profits. The package also includes marketing support and other specialist advice services.

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<sup>88</sup> Docs APP/P5.1 and P5.3 (P Ellingham proof and Appx), 4.6.1 – 4.6.3 and Appendix 2, summary of mitigation

<sup>89</sup> Doc WBHE/B14 (ES Addendum, 2018)

<sup>90</sup> Docs WBHE/F22 and F23 (approval of ES Addendum)

<sup>91</sup> Doc WBHE/B6 (SoS decision, 2004)

<sup>92</sup> Doc WBHE/C1 (Code of Construction Practice, part 1)

<sup>93</sup> Docs WBHE/B11 and F6 (approvals re CCP Pt 1)

<sup>94</sup> Docs APP/P1.6 and /P1.7 (P Adams 2<sup>nd</sup> Supp and Appendices), paras 4.1 – 4.7, and Appxs 3 and 4 re business support package

81. Specific protections for the interests of Network Rail and CRT, and for all statutory undertakers, are contained within the terms of the Draft Order itself<sup>95</sup>.
82. All together, it is argued that the ES, the planning conditions, the CCP, the SDG, the business support package, and the protective provisions within the Order itself, will act to ensure adequate mitigation for all adverse impacts.

*Need for compulsory purchase powers*

83. WMCA has sought positively to engage in negotiations with all of the landowners and others with interests in the 354 land parcels comprising the Order lands, as identified in the Book of Reference. In a number of cases, voluntary agreements for the acquisition of the necessary land and rights have now been concluded; and as a result, as noted earlier, it has now been possible to propose that 7 of the original plots should now be deleted. In some other cases, agreements are actively under discussion and appear to be progressing with a reasonable prospect of success.
84. But nevertheless, there are also a number of cases where the response to WMCA's approaches suggests that an amicable agreement is unlikely to be reached within a reasonable timescale, and hence the acquisition of those interests and rights may not be possible without the use of compulsory purchase powers. In other cases, although some progress has been made, WMCA considers that the power of compulsion is still likely to be needed as a fall-back<sup>96</sup>.
85. At the inquiry, WMCA tabled a schedule containing a summary of the state of play in terms of land negotiations with the remaining objectors<sup>97</sup>. A folder was also tabled containing copies of correspondence with those objectors<sup>98</sup>. In oral evidence it was emphasised that negotiations were continuing not only with these parties, but with all other owners and interests, where it was considered that progress could still be made.
86. The extent of the Draft Order has been kept under review by WMCA, and this is reflected in the proposed revisions to the Order itself and to the Land Plans and Book of Reference, which were tabled at the inquiry. Subject to these minor changes, it is considered that all of the land parcels now proposed to be included are necessary for the Draft Order to serve its purpose, of enabling the WBHE scheme to be carried out.

*The SoS' original decision*

87. In his original decision<sup>99</sup> on the WBHE, in December 2004, the SoS found, amongst other things:
- The scheme was supported by planning and transport policies at national, regional and local levels, and would bring transport, regeneration and socio-economic benefits to the area (SoS para 12);

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<sup>95</sup> Doc WBHE/A2 (the Draft Order), Articles 17 and 18, and Schedule 4

<sup>96</sup> Docs APP/6.1 (B Fowler proof), paras 3.9 – 3.14; and APP/P1.1 (P Adams proof), paras 8.24 – 8.30

<sup>97</sup> Doc APP/INQ 7 (Update on Objections and Status of Negotiations)

<sup>98</sup> Doc APP/INQ 6 ((Correspondence with Remaining Objectors)

<sup>99</sup> Doc WBHE/B6 (SoS decision)

- The proposed route was justified and appropriate to meet the scheme's stated objectives (SoS para 13);
  - The scheme's effects on the potential for heavy rail services would be acceptable (21);
  - All of the Order lands had been shown to be necessary for the scheme to be implemented, the proposed powers were reasonable, and there was a compelling case for those powers, in the public interest (26);
  - Any residual adverse impacts on local residents would be within acceptable limits (33);
  - The scheme would not give rise to unacceptable impacts on local businesses (37);
  - The scheme would not significantly harm pedestrian safety or the pedestrian environment (38);
  - Any adverse impacts on the Castle Hill Conservation Area would be within acceptable limits (39);
  - No material harm would be caused to the Parkhead Locks Conservation Area (40);
  - The remedial and mitigation measures in the ES, together with the provisions of the CCP would provide safeguards, and that together with the Compensation Code, these would help to ensure that any remaining impacts would be within acceptable limits (42);
  - with regard to open space land, the Order would be subject to special Parliamentary procedure under Section 12 of the TWA (45);
  - there would be no unacceptable effects on the carrying out of any statutory undertakings (47);
  - all canal and waterway interests would be adequately safeguarded (48);
  - the ES provided sufficient information to assess the Order's likely environmental impacts (50);
  - any residual adverse environmental effects would be outweighed by the scheme's long term benefits (51);
  - the transportation, regeneration and socio-economic benefits would outweigh by some margin any adverse impacts on local communities or the environment (55);
  - the powers sought were appropriate and justified in the public interest (56).
88. It is argued that all of these conclusions apply with equal force to the present Draft Order.

*Compelling case in the public interest*

89. In the light of all these considerations, WMCA submits that the WBHE scheme would bring self-evident benefits in terms of transport, regeneration, the economy, the environment and the quality of life. In the absence of any significant adverse impacts, there is a compelling case in the public interest for the confirmation of the Draft Order.

## WRITTEN REPRESENTATIONS OF SUPPORT

### *Dudley Metropolitan Borough Council*

90. DMBC fully supports the WBHE and the Draft Order<sup>100</sup>. The extension of the Metro system will help to unlock and support key regeneration projects, including the DY5 Enterprise Zone, major development in Dudley town centre, the expansion of tourist attractions, the proposed Very Light Rail centre, the planned University Centre, and a proposed Music Institute at the Waterfront. As such, the scheme is seen as vital to the area's future economic well-being.

### *Association of Black Country Authorities*

91. The Association supports the WBHE scheme for similar reasons to those of DMBC<sup>101</sup>.

### *Dudley Zoological Gardens*

92. Dudley Zoo supports the Draft Order<sup>102</sup>. The Zoo has achieved 90% growth in visitor numbers over the past decade. It now has plans for further development, and sees it as important to maintain this momentum. The WBHE scheme will improve transport links and help to capitalise on the benefits of HS2. It will also relieve congestion and pollution caused by too many cars. As a result, the new tramway will help to maximise the potential for growth in the local visitor economy, and contribute to the region's regeneration.

### *Dudley Canal and Tunnel Trust*

93. The Trust's mines, tunnels and caverns are a local heritage attraction, drawing in 100,000 visitors a year<sup>103</sup>. The WBHE would provide faster access from Birmingham, and provide a basis for the Trust to enhance its facilities and add to the visitor experience.

### *Black Country Living Museum (late representation)*

94. The Museum is one of the largest of its type in the UK, employing over 260 staff, and attracting 355,000 visitors a year<sup>104</sup>. It generates an annual turnover of £8m, and supports its own running costs. The WBHE would provide a fast, convenient, inexpensive and more environmentally sustainable means of travel. This would help to support the Museum's further business growth, and reduce pressure on the existing parking facilities.

95. In anticipation of the new tramway, the Museum has taken a decision to re-orientate its main entrance towards the tramstop that will become the arrival point for visitors using this form of transport. This will form part of a £25m expansion and upgrading project due to start in summer 2019. The WBHE has the potential to be a catalyst for other such developments in the area.

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<sup>100</sup> Doc SUPP 01 (DMBC support letter)

<sup>101</sup> Doc SUPP 02 (Association of Black Country Authorities' support letter)

<sup>102</sup> Doc SUPP 03 (Dudley Zoo support letter)

<sup>103</sup> Doc SUPP 04 (Canal & Tunnel Trust support letter)

<sup>104</sup> Doc SUPP 05/L (Black Country Living Museum support letter)

*The Village Hotel, Dudley (late representation)*

96. The WBHE will facilitate easier access to Dudley and its visitor attractions, and help combat the existing traffic and congestion problems<sup>105</sup>. It would also make the town a more popular location for businesses, and enhance the area's reputation generally. Many of the staff at the hotel rely on public transport to get to work, and the new tramway would provide a convenient alternative for them.

*Dudley College (late representation)*

97. The College is a major provider of further education in the area<sup>106</sup>. The WBHE will improve access to Dudley and Brierley Hill town centres, help manage congestion, and enhance mobility for local communities, including students. As such, it will assist in broadening the area's skills base and thus support economic growth and investment.

## **THE REMAINING OBJECTIONS**

*Objection No 7: Jessops UK Ltd*

98. Jessop UK Ltd lodged an objection to the Draft Order on 29 January 2018<sup>107</sup>, within the statutory period. They then submitted a statement of case in December 2018<sup>108</sup>, and two further written representations, in February and March 2019<sup>109</sup>. The Company did not appear at the inquiry.
99. Jessops occupies Unit 64L in the Merry Hill shopping centre. Their lease commenced in 2016, after the land acquisition powers in the 2005 Order had expired. The lease gives the Company rights of access via the shopping centre's private roads system, which includes The Embankment and Central Way.
100. In the Draft Order, the northern section of The Embankment (from Level Street to the junction with Central Way) falls within Plot 336, which is proposed to be permanently acquired by WMCA. The remainder of The Embankment, together with part of Central Way, falls within Plot 337, where WMCA is seeking to acquire permanent rights of access over the land, for the purposes of construction and maintenance of the tramway and related works.
101. The Company anticipates that, during construction, The Embankment is likely to have to be closed or partially closed on occasions, possibly for periods lasting weeks or months. Based on past experience, it is considered that this will cause severe difficulties for customers, delivery vehicles and staff. In those circumstances, customers would be deterred from shopping at Merry Hill, and retailers would face difficulty maintaining normal operations. This is likely to result in reduced turnover, increased costs and lost profits.
102. Having regard to the statutory Compensation Code, and the terms of the Draft Order, the Company believes that losses of this kind, due to business

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<sup>105</sup> Doc SUPP 06/L (Village Hotel support letter)

<sup>106</sup> Doc SUPP 07/L (Dudley College support letter)

<sup>107</sup> Doc OBJ 07 (Jessops' objection letter)

<sup>108</sup> Doc OBJ 07/SOC (Jessops' S.O.C.)

<sup>109</sup> Docs OBJ 07/W1 and OBJ 07/W2 (Jessops' further written reps)

interruption, will not be compensated. Although some compensation could be payable, based on the diminution in the value of the Company's lease, this would be only a nominal amount, because the lease is relatively new, with upward-only reviews, and as such, its market value on transfer would be small. The Order makes provision for other types of loss or damages in the case of owners and occupiers whose land or property interests are to be acquired, even if only temporarily, but it does not extend the same provisions to parties who hold rights over the land. The discretionary business support scheme, announced subsequently, applies only to a limited area, which does not include Merry Hill. The basis for compensation within the terms of the Order as a whole therefore fails to address all of the scheme's adverse effects, and does not come near to covering the scale of the losses that the Company could face due to road closures and loss of trade.

103. The Company is also concerned about possible damage to the shopping centre's private roads during construction. Under the terms of their lease, occupiers including Jessops could be required to meet the costs of repairs and reinstatement. Similar considerations apply, in that neither the terms of the Order, nor the statutory code appear to make provision for compensation against these kinds of adverse impacts.
104. Throughout the process, Jessops has sought to negotiate over these matters, and has offered to withdraw its objection on receipt of satisfactory assurances from WMCA. However, the Authority has failed properly to engage. Information which was promised, including a Construction Access Strategy and a Traffic Management Strategy, has not materialised. The undertaking which WMCA has entered into offers only reasonable endeavours; this falls well short of guaranteeing that access will be maintained. The Authority has shown no willingness to negotiate a bilateral agreement with the Company, but has placed undue reliance on the potential use of compulsory powers.

*Objection No 11: Waterstones Booksellers Ltd*

105. Waterstones lodged an objection to the Order on 29 January 2018<sup>110</sup>, within the statutory period. The company has subsequently indicated that it wished to maintain its objection, relying on the contents of its initial objection letter.
106. The Company occupies Units 95 and 96 in the Merry Hill shopping centre. Their lease confers rights of access via the shopping centre's private roads.
107. The concern expressed in the objection relates to the Draft Order's provisions regarding Plots 336 and 337. The Embankment is an important access route serving the shopping centre car parks and service areas. There is the potential for the proposed works to impede access, with consequent damaging impacts on Waterstones' retail business.
108. Waterstones contend that the extent of the land included in Plot 336 has not been adequately explained or justified. The removal of this land from the Order is sought.

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<sup>110</sup> Doc OBJ 11 (Waterstones' objection letter)



*Objection No 20: McDonalds Restaurants Ltd, Astrad Ltd and AR Sirkhat*

109. McDonalds Restaurants Ltd, Astrad Ltd and AR Sirkhat jointly lodged an objection to the Draft Order on 29 January 2018<sup>111</sup>, within the statutory period. They then submitted a further written representation, in February 2019<sup>112</sup>. The objectors did not appear at the inquiry.
110. The objectors are the leaseholder and franchisees of three units at the Merry Hill Centre, being internal Units Nos 51A and L102, and an external unit on The Boulevard. The leases and agreements include rights as to customer and service access and parking.
111. The objection primarily relates to the effects on retail operators during the construction stage. Concerns are expressed regarding the effects on vehicular and pedestrian access for customers, access for servicing and emergency vehicles, and possible interruptions to utility services.
112. Criticism is expressed regarding a lack of detailed information provided by WMCA, and a lack of adequate guarantees as to mitigation measures during construction, and an absence of commitment to giving retailers advance notice of works and their likely effects in the vicinity of Merry Hill.

*Objection No 24: Mr Tim Weller (late objection)*

113. Mr Weller's comments are contained in a written submission first received on 12 March 2019<sup>113</sup>, outside the statutory period for the receipt of objections. Mr Weller did not appear at the inquiry, and does not have a qualifying interest in the Order lands.
114. Mr Weller opposes the construction of the WBHE, principally on the grounds that using the disused South Staffordshire Railway corridor for the new tramway would mean giving up the opportunity to reintroduce heavy-rail operations on this route, either for freight or for passenger services, at some time in the future. In his view, the line could be easily restored to its former use, and could serve a useful purpose as part of an enhanced national railway network.
115. In Mr Weller's opinion the WHBE represents poor value for money. It will offer little or no advantage over the existing bus services, and indeed will hamper them by forcing changes in bus routing to accommodate the new tram tracks.

## **WMCA'S RESPONSE TO THE REMAINING OBJECTIONS**

*Access to Merry Hill Shopping Centre during construction*

116. All construction activities, and impacts during construction, will be fully governed by the various control mechanisms that have been put in place, including the CCP, and the legal undertakings given to objectors<sup>114</sup>. For the Merry Hill area, Part 2 of the CCP will include detailed plans for the sequencing and timing of operations, traffic management and diversions, pedestrian

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<sup>111</sup> Doc OBJ 20 (McDonalds' objection letter)

<sup>112</sup> Doc OBJ 20/W1 (McDonalds' further written rep)

<sup>113</sup> Doc OBJ 25/L (T Weller's submission)

<sup>114</sup> Docs WBHE/F7 – F13 (unilateral undertakings)

routeing, and communications<sup>115</sup>. All of these details will have to be subject to agreement and approval by the relevant local planning and highway authorities. WMCA also plan to consult the owners of the Merry Hill Centre, Intu Properties, over these discussions.

117. The undertakings commit WMCA to maintaining the existing traffic and access routes where possible; to give advance notice and route signage for any temporary changes; to provide clear information to retailers and customers; and generally to minimise disruption as far as reasonably practicable. Specific undertakings have been given to Jessops, and to Waterstones and to McDonalds, Astrad and AR Sirkhat, which are intended to address their individual concerns, but in addition WMCA are also bound by all of the other undertakings given to objectors, including those who have since withdrawn their objections.
118. The construction of the proposed tracks and tramstop adjacent to The Embankment will necessitate some temporary full or partial road closures, because construction work will need to take place in close proximity to the carriageway<sup>116</sup>, and working space will be needed for plant, lifting gear, materials and unloading etc. But since WMCA has now opted for a viaduct rather than major earthworks and retaining walls, some of the structure can now be pre-fabricated, and this will help to reduce the duration of works on site at this location<sup>117</sup>. In total, the Embankment works are expected to take about 30 months, and during this period some sections of the carriageway will need to be narrowed from time to time. But for most of the time, it is expected that traffic flows can be maintained, either with temporary signals or a temporary one-way system. Any periods of full closure are expected to be limited in number and of short duration, typically no more than a week at a time<sup>118</sup>. In any event, WMCA seeks to ensure that the disruption to normal traffic and pedestrian flows will be limited to the minimum necessary.
119. At the Level Street/Embankment roundabout, a draft Construction Plan<sup>119</sup> has been devised which shows how the works can be phased to maintain continuous traffic flows throughout. This can be achieved by switching the traffic from the inner circulation path to the outer, and back again, whilst the ground levels and kerblines are reconfigured, and while the tram tracks and traffic signals are installed. This will avoid the need for a full closure of the junction, even temporarily.
120. Throughout the works, utility diversions are to be carried out by micro-boring, which will further minimise the need for any road closures<sup>120</sup>.
121. WMCA recognises that the weeks leading up to Christmas, and around some of the other bank holidays, are a particularly important period for retail operators, as well as giving rise to above-average traffic flows. The Authority will avoid

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<sup>115</sup> Oral evidence - I Collins

<sup>116</sup> Doc APP/P3.3 (I Collins appendices), Appx 3 – ‘General Arrangement’ plan for The Embankment area

<sup>117</sup> Doc APP/P3.1 (I Collins proof0, para 8.12.2 – 8.12.4

<sup>118</sup> Oral evidence – I Collins

<sup>119</sup> Doc APP/P3.3 (I Collins appendices), Appx 4 – draft Construction Plan for The Embankment

<sup>120</sup> Oral evidence – I Collins

any road closures or traffic restrictions during these times, including by suspending works if necessary<sup>121</sup>.

122. Even though there will inevitably be some interference with traffic and pedestrian routing at times during the construction works, that interference will affect only the north-western access from The Embankment/Central Way junction. Access into the Merry Hill Centre car parks and service areas can also be gained from the Level Street/Central Way junction, to the north-east, and from The Boulevard to the south, and these will be unaffected<sup>122</sup>. Access into the north-western car parks can be gained from the whole length of Central Way, including that part which is outside the Draft Order. The shopping centre building itself has 18 entrances from the surrounding car parks and footways, and all of these will remain open throughout<sup>123</sup>. More than adequate access to the whole of the Centre will therefore be maintained at all times.
123. Overall, every effort has been made to minimise any adverse effects on retailers during construction, and the residual impacts are likely to be small. These impacts will be no worse now than was anticipated in 2005 when the original Order was confirmed.

*Access to Merry Hill Centre after completion of the works*

124. After completion, The Embankment will return to being a 2-way road open to all traffic, in much the same as its present form, except that it will be under the ownership of WMCA. The specific rights of access over it that leaseholders at the Merry Hill Centre currently hold would be extinguished, but they and their customers would continue to have unfettered use, as would the general public.
125. Central Way will remain a private road, controlled by Intu Properties, and leaseholders will continue to have the same rights under the terms of their leases as they do now. WMCA would have an on-going right to use parts of Central Way to access the tramway and its infrastructure for maintenance purposes, but it is not expected that this will interfere significantly with the use of the private road by retailers or other traffic. The only permanent change to the local road network in the vicinity of the shopping centre will be the alterations that are needed to the Level Street junction, with the new signalised tramway crossing replacing the existing roundabout.
126. The operation of the local road network, post-construction, has been tested using micro-simulation modelling, and the overall net effects are shown to be slight, with most junctions operating within their capacities. One junction, in Dudley town centre, would be over-capacity, but only marginally so. Based on these modelling results, any potential adverse impacts would be capable of being countered by optimising the signal timings. In any event, the modelling excludes any modal shift resulting from the new tramway, and so represents a worst-case scenario<sup>124</sup>.

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<sup>121</sup> Doc APP/P1.1 (P Adams proof), para 11.34

<sup>122</sup> Doc APP/INQ/9.2 (Shopping Centre vehicle accesses)

<sup>123</sup> Doc APP/INQ/9.1 (Shopping Centre internal layout plan)

<sup>124</sup> Doc APP/P4.1 (H Budhiraja proof), sections 5 and 6

127. For pedestrians, the signalisation of the Level Street junction will make access to the Merry Hill Centre from the surrounding area safer and more convenient. Users of the new tramway itself will have easy access to the shopping centre by lifts and a new walkway. The tramway stop at the Embankment has been planned to serve the shopping centre in the most convenient way possible. Overall, the proposed scheme is expected to produce a net increase in footfall and an increase in retail trade.

*Reinstatement of road surfaces*

128. A pre-construction survey will be carried out to establish the condition of the road surfaces. WMCA will be responsible to Intu Properties for any damage to Central Way, and will make good where necessary. There is no reason why any liability should fall on leaseholders in this regard. In the case of The Embankment, leaseholders will have no further liability for those sections that are to be acquired by WMCA.

*Compensation for lost business during construction*

129. In WMCA's submission, compensation is not normally a matter for the SoS, because the issues before him are primarily only those that are concerned with the justification for the use of compulsory purchase powers. In the present case, the Draft Order conforms to the model clauses of the Compulsory Purchase Act 1965, and Article 4 specifically applies Part 1 of that Act. Compensation is therefore payable in accordance with the terms of the national Compensation Code. Any dispute as to the amount can be independently determined by Tribunal. Consequently, the scope of the compensation available under the Draft Order does not give rise to any valid objection<sup>125</sup>.
130. The Code provides for claims relating only to losses which are attributable to the scheme itself, including losses due to diminution of value, injurious affection, severance or disturbance. WMCA agrees with Jessops that, in all probability, this will exclude any claim in respect of a temporary loss of profits due to adverse trading conditions during construction. Unless the effect is so great as to affect the market value of the leasehold interest, this type of impact is likely to fall outside the terms of the Code. It is accepted that this leaves open the possibility that Jessops or other traders might suffer some losses that are not compensated. But that is because Parliament has chosen not to grant a statutory right to compensation in these types of situations. As a matter of public policy, WMCA considers that a departure from this statutory position would be undesirable, as it would open the acquiring authority to unquantifiable additional costs, and could potentially create a precedent which would hinder other public infrastructure projects in the future<sup>126</sup>.
131. In any event, it is argued that the possibility of fluctuations in trading patterns, whether due to roadworks, traffic management schemes or any other cause, is within the normal range of risks that may be faced by any retail business. In this respect the circumstances relating to the WBHE scheme are little different from many other kinds of necessary public works. After the construction works

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<sup>125</sup> Doc APP/P6.1 (B Fowler proof), paras 6.1 – 6.12

<sup>126</sup> Oral evidence – B Fowler

are completed, local businesses throughout the area stand to benefit from the improved accessibility, the widening of catchment areas, and the added economic buoyancy that the new tramway will bring. This is expected to produce an upturn in trading conditions at the Merry Hill Centre, which will more than offset any losses<sup>127</sup>.

132. The lack of provision for enhanced compensation, above and beyond the national Code, should therefore not weigh against the Draft Order.

#### *Negotiations*

133. WMCA maintains that it has sought proactively to engage with all qualifying objectors, with a view to reaching agreements on mutually amicable terms. Copies of the relevant correspondence with each has been produced to the inquiry<sup>128</sup>.

#### *Effects on future options for heavy rail*

134. The possibility of re-introducing heavy rail capacity along the Stourbridge to Walsall corridor, which includes the WBHE route, was examined by Network Rail in the West Midlands and Chilterns Route Study, in 2017<sup>129</sup>. The study put the costs of reopening the disused and abandoned lines for heavy rail at between £375m to £875m. Other options were also considered, for both passenger and freight services, which were found more realistic whilst still being capable of meeting forecast demand. As a result, the Stourbridge to Walsall option was not recommended to be taken forward<sup>130</sup>.
135. The possibility of heavy rail was then considered again, by WMCA, in its Option Review Update report<sup>131</sup>, which formed part of the Final Business Case, published in February 2019. In comparing the various alternatives for the WBHE route, heavy rail was found to produce a lower BCR than trams. In particular, it was unable to achieve the same degree of urban penetration at key points such as Dudley and Brierley Hill town centres, or to provide easy, direct links to Birmingham or Wolverhampton city centres<sup>132</sup>.
136. In a letter dated 4 July 2018, Network Rail (NR) confirmed its support for transferring the ownership of its land holdings within the Draft Order lands to WMCA, and to work jointly with WMCA on that transfer<sup>133</sup>. NR's support is conditional on safeguarding the possibility of future rail services, and accordingly the design of the WBHE makes 'passive provision' for future conversion to a combined tram and heavy rail corridor, sharing the same tracks<sup>134</sup>. In this context, passive provision includes building-in measures such as strengthening of bridge structures to accommodate the additional loading<sup>135</sup>.

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<sup>127</sup> Oral evidence – B Fowler

<sup>128</sup> Doc APP/INQ/6 (folder of correspondence with objectors)

<sup>129</sup> Doc APP/R3.2 (Rebuttal to T Weller, Appendices), Appx 1 – W Midlands & Chilterns Route Study

<sup>130</sup> Doc APP/R3.1 (Rebuttal to T Weller), paras 7 - 11

<sup>131</sup> Doc APP/R3.2 (Rebuttal to T Weller, Appendices), Appx 3 – Option Review Update

<sup>132</sup> Doc APP/R3.1 (Rebuttal to T Weller), paras 12 - 13

<sup>133</sup> Doc APP/R3.2 (Rebuttal to T Weller, Appendices), Appx 2 – NR letter

<sup>134</sup> Doc APP/3.1 (I Collins proof), paras 6.14 – 6.16

<sup>135</sup> Oral evidence – I Collins

137. The NR letter also quotes advice from DfT, indicating support for the proposed transfer of ownership to WMCA, on this basis. WMCA anticipates that these matters will in due course be covered in a formal agreement with NR.

*Effects on bus services*

138. The WBHE will not duplicate existing bus services, nor is it intended to replace or displace them. However, the new trams will offer a faster and more direct service, including key destinations in Birmingham and Wolverhampton. These advantages to passengers, businesses and local communities are substantial enough to justify any consequential adjustments to the existing bus services that may follow<sup>136</sup>.

139. Because of the tram's advantages, some bus services are likely to see a drop in passenger numbers, and in those cases the bus operators will suffer reduced revenues. But the operators are commercial organisations, and they will be free to compete or adapt as they wish. Response mechanisms could include adapting service frequencies, routings or pricing. In time, some may find that new opportunities emerge for feeder services linking with the new tramway<sup>137</sup>. No bus operators have objected to the Draft Order.

## **INSPECTOR'S CONCLUSIONS**

140. In the remainder of this report, where references are given in square brackets, thus [ ], these refer to the corresponding earlier paragraphs above.

141. In the light of all the matters set out above, I consider that the main issues are those set out in the SoS's Statement of Matters<sup>138</sup>.

*Matter 1: Justification for the Order*

142. The WMCA's evidence sets out very fully the objectives of the proposed scheme [34], and the reasons why an extension of the Metro system from Wednesbury to Brierley Hill is needed, on economic and social grounds [35-36], transport grounds [37-39], and as a catalyst for regeneration [40-41].

143. The new tramway is supported by local planning policies, and by the locally approved economic and transport strategies for the area [42-46]. The need for the scheme has also been recognised by Central Government, in the context of decisions made on the devolution arrangements for the West Midlands, and maximising HS2 connectivity, and the associated commitments in respect of Government funding [47-50].

144. None of WMCA's submissions on these matters is challenged in any way. I see no reason to disagree. In my view the Authority's case with regard to the justification for the scheme is well-founded.

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<sup>136</sup> Doc APP/R3.1 (rebuttal to T Weller), paras 14 - 17

<sup>137</sup> Oral evidence – D Carter

<sup>138</sup> Doc GEN/3 (S.O.M.)

*Matter 2: The alternatives to compulsory acquisition*

145. In its written and oral evidence, WMCA has described the nature and extent of the efforts made, and the procedures undertaken, in their attempts to secure all of the necessary land for the WBHE scheme by means of negotiated agreements [83-86, 133]. It may be that certain details have yet to be provided to owners and tenants, such as construction access and traffic management plans, but these documents are not yet finalised, and ultimately the decisions on these matters rest with the relevant local authorities. I also appreciate that the undertakings entered into by WMCA do not amount to cast-iron guarantees, but nonetheless they do commit the Authority to use reasonable endeavours, and realistically it is difficult to see what more could be expected.
146. To my mind the evidence demonstrates that the Authority has approached its task diligently and sympathetically, and with some successes. But nevertheless, some interests still remain to be acquired.
147. With regard to these outstanding interests, all reasonable avenues now appear to have been exhausted. I therefore conclude that, for the WBHE scheme to be able proceed within a reasonable timescale, there is now no realistic alternative to the taking of powers of compulsory acquisition.

*Matter 3: The anticipated benefits of the scheme*

148. WMCA's evidence again sets out in considerable detail the nature of the expected benefits of the WBHE scheme, not just for the purposes of transportation, but also in terms of regeneration and the local economy [57-61]. These benefits closely mirror the proposed scheme's objectives. The Economic Impact Assessment provides further quantification of the potential economic benefits, in terms of new jobs, homes, and facilities [62-64]. The supporting representations from a variety of local organisations and businesses show that WMCA's view of the value of these benefits is shared by others in the local community [90-97].
149. None of these submissions regarding the scheme's benefits are disputed by any party, other than in the late representation from Mr Weller; and even in that case, the doubts expressed are not supported by any persuasive evidence [113-115]. In the light of WMCA's comprehensive response [134-139], I can see no clear reason for preferring Mr Weller's view over the weight of all the other evidence.
150. Furthermore, the benefits of the WBHE scheme were accepted in full by the SoS in his previous decision, in December 2004 [87]. There is no evidence of any new circumstances that would affect the reasoning behind that decision, or point to a different outcome now.
151. In my view it is self-evident that the proposed new tramway would provide modern, convenient and sustainable transport links between the Black Country towns, and between that area and the wider region. In addition, the evidence as to the potential regeneration and socio-economic benefits is substantial and convincing. On all the evidence available, I see no reason to doubt that the WBHE scheme would have a major beneficial effect on transport, lifestyles, growth prospects, and the quality of life, throughout this part of the Black Country.

*Matter 4: The impacts on land owners, tenants, occupiers and statutory undertakers*

*(a) Access to businesses and car parks, and local road networks*

152. In common with the other elements of Matter 4, the evidence before the inquiry regarding access, under Matter 4(a), focuses mainly on the Brierley Hill/Merry Hill area. In this area, the new tramway would bring improved accessibility to the Merry Hill shopping centre, Brierley Hill town centre, and the Waterfront office and business area.
153. After the completion of the proposed works, the area's road layout and pedestrian networks would return to something very similar to their current form [124-125]. The main car parks, and the access routes to them would remain as at present. The only noticeable difference would be the conversion of the Level Street roundabout to a signalised cross-roads, with phasing to accommodate the new tramway crossing, and provision for pedestrians. The traffic modelling carried out by WMCA suggests that the resulting network will work well, with little adverse effect on traffic flows, routing or journey times [126]. Given the relatively minor nature of the changes, these results are unsurprising, and I see no reason to doubt their accuracy. For pedestrians, the new provisions associated with the junction alteration would provide a safer and easier route for some journeys than currently exists, and particularly to and from the Merry Hill Centre and the Waterfront [127]. The proposed new footway link from the Embankment tramstop to the shopping centre would provide safe and efficient access for tram passengers. The suitability of these post-development access arrangements is not questioned by any of the remaining objectors.
154. In so far as the three remaining objections by Jessops, Waterstones, and McDonalds/Astrad/AR Sirkhat relate to matters of access, they are concerned with the effects during the construction period only. During that time, it is common ground that some disruption would be likely [101, 107, 111, 118]. At the Level Street junction, although it is proposed to keep the junction open throughout, its capacity would be somewhat reduced while the alterations to it are being carried out [119]. At The Embankment, it is acknowledged that the road width would have to be restricted, and that full or partial closures would be needed at times [118]. However, these construction works would last for a finite period, and their effects on traffic and access would be temporary. The need to agree a CCP Part 2 allows the timing and duration of the works to be controlled, and provides a means of ensuring that diversions and signage would be put in place when necessary [78, 116]. In addition, the legal undertakings given by WMCA commit them to minimising any inconvenience [117]. In any event, as far as the Merry Hill Centre is concerned, alternative accesses are available, and apart from The Embankment, the others would not be directly affected [122]. All in all, I consider it unlikely that the effects during construction would be severe.
155. Apart from the Brierley Hill/Merry Hill area, the remainder of the WBHE route is not subject to any similar objections. In the case of Dudley town centre, there is the potential for some disruption during construction, due to the more dense, urban nature of the route, but WMCA's support package provides a measure of financial compensation for any adverse effects in that specific area [80]. Nothing in the evidence before me suggests that access anywhere else along the route is a cause for significant concern, either during or after construction.



156. I therefore conclude that the impact of the WBHE scheme on owners, tenants, occupiers and statutory undertakers, in terms of access to and within the area, would be contained within acceptable limits.

*(b) Economic impacts on local businesses*

157. For the reasons given above [153-156], I consider that any adverse economic impacts on businesses at the Merry Hill shopping centre, resulting from the likely temporary restrictions on access, would be limited. Nevertheless, the possibility of some businesses losing trade during construction cannot be ruled out.

158. It is common ground between the WMCA and Jessops that such losses would be unlikely to qualify for compensation within the terms of the Draft Order; and even if they did, the amount might well be negligible [102, 130]. However, the Draft Order is consistent in this respect with the national Compensation Code and other relevant legislation [129]. No clear reason has been advanced as to why this particular Order should be required to make provision for compensation beyond the terms of the statutory framework.

159. As the objectors point out, there is nothing to stop WMCA from offering additional compensation to retailers at Merry Hill on a discretionary basis, as they have done in their support package for traders at Dudley town centre [80, 102]. But equally, there is no clear reason why WMCA should be expected to do so, especially given the obvious differences between these two areas, which I observed on my visits. At Dudley, the new tramway would run along town centre streets, directly adjacent to the main shopping area. Many shoppers are likely to arrive on foot or bicycle, or by bus. The town centre has a relatively high proportion of small, locally-based, independent traders. Whereas at Merry Hill, the Centre is geared towards multiple retailers, with shoppers arriving by car; and the construction works now proposed would be beyond the Centre's car parks and outside its perimeter road system. To my mind, these circumstances are sufficiently different to justify the different compensation arrangements.

160. Irrespective of any temporary adverse effects during construction, local businesses throughout the area stand to benefit from the WBHE in the longer term, through the tramway's positive effects on accessibility, connectivity and business confidence [57-64, 148-151].

161. In the light of all these considerations, I am satisfied that the compensation arrangements incorporated within the Draft Order, together with the discretionary arrangements put in place by WMCA, are adequate. No other significant adverse impacts on any local businesses have been identified. I conclude that the Order's economic effect on local businesses would be acceptable.

*(c) Impacts on members of the general public*

162. The general public and local communities, throughout the Black Country, would share in the socio-economic and transport benefits of the WBHE scheme which I have already identified [57-64, 148-151].

163. For the reasons outlined above, many of those travelling by car or on foot would also be likely to suffer some inconvenience and delays during the construction stage. However, as already discussed, there is no evidence that these impacts

would be serious, especially given that a range of control mechanisms have been put in place, and alternative routes are available [116-123, 154-156]. Although delays and inconvenience are cited in some of the remaining objections, none of these comes from members of the public themselves.

164. There is no doubt in my mind that the temporary adverse effects on the travelling public, which would be experienced during construction only, would be clearly outweighed by the benefits that the WBHE would bring to the area.

*(d) The adequacy of any mitigation measures*

165. Mitigation for the impact on traffic and movement during construction is taken account of in the above conclusions [156, 161, 164]. Such mitigation would be achieved primarily through the terms of the existing planning conditions, the CCP, and WMCA's legal undertakings [116-123, 154]. Mitigation in respect of any other impacts, so far as may be required, is also provided for through the terms of the ES and SDG [74-79]. Protection for statutory undertakers is specifically provided for within the terms of the Draft Order [81].

166. To my mind, all of the scheme's likely impacts are adequately addressed through these measures. Consequently, any residual impacts are unlikely to be significant.

*Matter 5: MHCLG Guidance criteria*

*(a) Compelling case in the public interest*

167. For the reasons set out above, I have concluded that the proposed scheme, extending the Midland Metro from Wednesbury to Brierley Hill, is clearly needed, to remedy the deficiencies of the existing transport network in this part of the Black Country, and also to assist in bringing forward urgently-needed economic growth and renewal [142-144]. In this context, I consider that the new tramway extension would have a major beneficial effect on transport choices, economic prospects, and the quality of life in the area as a whole [148-151].

168. With regard to the remaining objections, I have found no evidence that the scheme would have any permanent or long-term adverse impacts, either on property owners and occupiers, or on local businesses, statutory undertakers, or the general public [153]. Such impacts as would occur would be largely confined to delays or diversions to traffic and pedestrian routes, during construction. Realistic measures have been put in place to minimise these effects, and as a result, the inconvenience suffered by the public during this limited period is likely to be relatively minor [156, 164, 166].

169. There is a possibility that the disruption to traffic could affect takings at some local businesses, and if so, the resulting losses would not be recoverable, other than for traders covered by WMCA's discretionary support scheme. But in this respect I am satisfied that the Draft Order properly reflects the relevant statutory provisions under which compulsory purchase orders are made [158, 161].

170. In the light of all these considerations, I conclude that the WBHE scheme's adverse impacts are clearly outweighed by its public benefits. A compelling case for the confirmation of the Order, in the public interest, has therefore been demonstrated.

*(b) Interference with human rights*

171. The making of the Order would authorise the taking of interests in the Order lands, or rights over them, by compulsion. The exercise of those powers would represent an interference with the right to peaceful enjoyment of possessions, which is protected by Article 1 of the First Protocol to the European Convention on Human Rights (the ECHR), incorporated into UK law by the Human Rights Act 1998. However, Article 1 rights are qualified rather than absolute, and may lawfully be overridden where justified in the public interest.
172. With regard to the three remaining objectors with qualifying interests (Jessops, Waterstones, and McDonald/Astrad/AR Sirkhat), although these objectors would lose their existing express legal rights to use The Embankment (Plot 336) for access, it is clear from WMC's evidence that their use of that road would in practice be able to continue unhindered, as it would effectively become public [124]. Moreover, in respect of Central Way (Plot 337), the objectors' existing rights would not be taken or altered at all, but would remain as they are now, except that they would be exercisable in common with WMCA's occasional use for maintenance purposes [125]. Consequently, it seems to me that in neither of these respects would the objectors in question suffer any material detriment.
173. No other qualifying objections are before me, and there is therefore no evidence that the interference with Article 1 rights, in respect of any other interests, would cause any significant detriment to any of the other owners, lessees, tenants or occupiers identified in the Book of Reference.
174. In addition, some of the Plots within the Order lands involve land used for residential purposes, as part of a domestic curtilage<sup>139</sup>. In those cases, the exercise of the powers within the Order could also involve a potential infringement of rights under ECHR Article 8, relating to respect for private and family life. However, none of these particular cases are the subject of objections, and as far as I am aware, none involves taking possession of any dwelling. WMCA's stated view is that none of these cases involving residential land would give rise to any material detriment, and in the absence of any further evidence, I have no reason to disagree.
175. For the reasons that I have already identified, it is clear to me that in seeking to extend the Metro network, the proposed scheme would serve a legitimate public aim and bring substantial public benefits [167, 170]. I am also satisfied that the interference with Article 1 and Article 8 rights that would be caused is the minimum necessary to achieve the Draft Order's aims and secure these benefits. In the circumstances, I am content that the degree of the interference with those rights would be proportionate, and is justified in the public interest.

*(c) Any other impediments*

176. Funding has been fully secured for about 70% of the estimated costs of the scheme. The remainder would be raised through new borrowing, secured on future revenues. This borrowing is said to accord with the financial rules and procedures applying to public sector bodies. WMCA in its evidence to the inquiry expresses confidence in this method of funding the balance [69-70]. The

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<sup>139</sup> Doc WBHE/F5 (Statement of Case). Para 9.9

financing of the scheme is not questioned in any of the remaining objections, and I have no reason to doubt WMCA's evidence on these matters.

177. Planning permission already exists, and WMCA is preparing for an early start on construction [71-73]. Apart from the issue that has been identified relating to land defined as 'open space' [26-28], no other legal or technical impediments are known.
178. With regard to the open space issue, the position at the close of the inquiry was that about 0.4 ha of land falling within the relevant legal definition is included within the Draft Order, at Parkhead Viaduct, and no exchange land has been identified. However, there are no objections of any kind relating to this land, and there is nothing before me to suggest that its inclusion is either unacceptable or unnecessary. Having carried out relevant site inspections, I see no reason why the inclusion of this relatively small area of land, with or without replacement, should prevent the confirmation of the Order, subject to the necessary special Parliamentary procedure, in accordance with S.19(1) of the ALA and S.12(1) of the TWA.
179. In the event that the SoS were minded to confirm the Order, his decision could be made contingent on this additional procedural requirement, as in the case of the 2005 Order. In that case, the SoS's decision stated that the Order was to be laid before Parliament but would not come into force until the special procedure had been completed.
180. In the meantime, I note that WMCA intends to continue its negotiations with a view to being able to remove the majority of the open space land from the Order, but my report is necessarily based on the information before me now. On that basis, subject to this single procedural issue, I am satisfied that the WBHE scheme is deliverable.
- (d) Whether all the land and rights are necessary*
181. The only Plots whose inclusion in the Draft Order is challenged in the remaining objections, are Nos 336 and 337.
182. With regard to Plot No 336, the proposed Merry Hill tramstop platforms and lift tower would be sited within a narrow strip of steeply sloping land, in close proximity to The Embankment. Given these constraints, it seems sensible that the roadway comprising Plot 336 is brought fully within the Authority's control, to enable safe conditions to be ensured, both during construction and for future maintenance requirements [86, 118].
183. In the case of Plot 337, only access rights are to be acquired, and only to part of the length of Central Way. I am content that such rights are needed, to allow the Authority to gain access over this private roadway for necessary maintenance purposes.
184. In the absence of any other relevant objections, I am satisfied that all of the land embraced by the Draft Order is needed to fulfil the Order's purposes.

*Matter 6: Proposed changes to the Draft Order*

185. The changes to the Draft Order proposed by WMCA are set out in the amended full Draft tabled at the inquiry<sup>140</sup>, and clarified in the accompanying 'tracked changes' and 'comments' versions<sup>141</sup>. These are accompanied by amended full versions of the Land Plans and Book of Reference<sup>142</sup>. The reasons for, and effects of, these changes are fully explained in the Authority's opening submissions and other evidence [19-21].

186. The purpose of the changes is to ensure that the Order includes no more land than is absolutely necessary, and to that effect, a small number of parcels are proposed to be removed. In some cases, this is because agreement with the owners has already been reached, without the need for compulsion. To my mind this is a sensible approach, and I am satisfied that no-one is likely to be prejudiced by changes of this nature.

187. In the absence of a separate schedule of proposed changes, it seems to me that the most expeditious way of dealing with the changes is for the amended versions of the Draft Order, Land Plans and Book of Reference to now be substituted for the original.

*Matter 7: Statutory procedural requirements*

188. Matters relating to the statutory requirements have been highlighted earlier in this report [22-25]. Despite the acknowledged breach of rule 13(6)(b) of the Transport and Works (Inquiries Procedure) Rules, I remain satisfied that in this particular case no-one has been prejudiced. In the circumstances, I see no reason not to proceed with my recommendation.

*Matter 8: Any other matters*

189. All of the matters raised at the inquiry, or that I consider relevant to the decision, have now been covered elsewhere in this report.

*Overall conclusion*

190. In the light of the foregoing matters, I conclude that the Order should be made.

**FORMAL RECOMMENDATION**

191. I recommend that the Midland Metro (Wednesbury to Brierley Hill Land Acquisition) Order 201[X] now be made, subject to:

- i. the amendments incorporated in the amended Draft Order, Land Plans and Book of Reference, numbered APP/INQ 1.1, APP/INQ 2.1 and APP/INQ 3; and
- ii. the completion of the special Parliamentary procedure required by S.19(1) of the Acquisition of Land Act 1981 and S.12(1) of the Transport and Works Act 1992.

*J Felgate*

INSPECTOR

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<sup>140</sup> Doc APP/INQ 1.1 (amended Draft Order)

<sup>141</sup> Docs APP/INQ 1.2 and 1.3 (amended Draft Order – tracked changes and comments)

<sup>142</sup> Docs APP/INQ 2.1 and 3 (amended Book of Reference and Land Plans)

## APPEARANCES

### FOR THE WEST MIDLANDS COMBINED AUTHORITY:

Mr Neil Cameron QC	Instructed by Ms Jane Wakeham, of Winckworth Sherwood LLP
He called:	Transport Consultant
Mr Peter Adams BSc(Hons) CEng MICE MCIHT MCIHT MAPM	
Mr David Carter BSc(Hons) FCILT TPP	Transport Planner and Economist
Mr Ian Collins BEng(Hons) CENG FICE	Project Director, Colas Rail
Mr Himanshu Budhiraja BTech MPlan MSc MCIHT	Divisional Director, Pell Frischmann
Mr Paul Ellingham MA MRTPI	Planning Director, Mott MacDonald
Mr Bruce Fowler MRICS	Partner, Bruton Knowles

## INQUIRY DOCUMENTS

<b>APPLICATION DOCUMENTS</b>	
WBHE/A1	Application Letter
WBHE/A2	Draft of the Proposed Order
WBHE/A3	Explanatory Memorandum
WBHE/A4	Concise Statement of Aims
WBHE/A5	Consultation Report
WBHE/A6	Funding Statement
WBHE/A7	Land Plans 1-17
WBHE/A8	Book of Reference
WBHE/A9	Declaration as to Status of Applicant
WBHE/A10	Newspaper Notices
<b>LEGAL &amp; 2005 ORDER DOCUMENTS</b>	
WBHE/B1	Transport and Works Act 1992 (with amendments Dec 2017)
WBHE/B2	Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005
WBHE/B3	West Midlands Combined Authority Order 2016 (S.I. 2016/653)
WBHE/B4	West Midlands Passenger Transport Area (Designation) Order 1969 (S.I. 1969/97)
WBHE/B5	WMCA Board Resolution (12 Jan 2018)
WBHE/B6	Secretary of State's Decision Letter (20 Dec 2004)
WBHE/B7	Planning Conditions attached to the Deemed Planning Consent (Dec 2004)
WBHE/B8	2005 Order Inspector's Report (23 May 2004)
WBHE/B9	2005 Order - Environmental Statement Vol 1 (Mar 2003) [SEPARATE FOLDER]
WBHE/B10	Dudley MBC Discharge of Planning Conditions (4 Sept 2009)
WBHE/B11	Sandwell MBC Discharge of Planning Conditions (18 Dec 2009)
WBHE/B12	2005 Order – 'Green Hatched' planning drawings
WBHE/B13	Memorandum of Understanding - Canal and River Trust / WMCA (Nov 2018)
WBHE/B14	Environmental Statement Addendum (Apr 2018)
WBHE/B15	WMCA Board Meeting Minutes (8 Dec 2017)
<b>WBHE DEVELOPMENT DOCUMENTS</b>	
WBHE/C1	Code of Construction Practice Part 1 (2005)
<b>WBHE ECONOMIC AND BUSINESS CASE DOCUMENTS</b>	
WBHE/D1	WMCA Devolution Agreement (17 Nov 2015)
WBHE/D2	WMCA Second Devolution Deal (23 Nov 2017)
WBHE/D3	WBHE Business Case - Commercial Case, WMCA (Nov 2017)

WBHE/D3/A	WBHE Final Business Case - Commercial Case (Feb 2019) ['UPDATES' FOLDER]
WBHE/D3/B	WBHE Final Business Case - Commercial Case - appendices (Feb 2019)
WBHE/D4	WBHE Business Case - Financial Case, WMCA (Nov 2017)
WBHE/D4/A	WBHE Business Case - Financial Case, WMCA - appendices (Nov 2017)
WBHE/D4/B	WBHE Final Business Case Financial Case (Feb 2019)
WBHE/D4/C	WBHE Final Business Case Financial Case - appendices (Feb 2019)
WBHE/D5	WBHE Business Case - Strategic Case, WMCA (Nov 2017)
WBHE/D5/A	WBHE Business Case - Strategic Case, WMCA - appendices (Nov 2017)
WBHE/D5/B	WBHE Final Business Case - Strategic Case (Feb 2019)
WBHE/D5/C	WBHE Final Business Case - Strategic Case - appendices (Feb 2019)
WBHE/D6	WBHE Business Case - Management Case, WMCA (Nov 2017)
WBHE/D6/A	WBHE Business Case - Management Case, WMCA - appendices (Nov 2017)
WBHE/D6/B	WBHE Final Business Case - Management Case (Feb 2019)
WBHE/D6/C	WBHE Final Business Case - Management Case - appendices (Feb 2019)
WBHE/D7	WBHE Business Case - Economic Case, WMCA (Nov 2017)
WBHE/D7/A	WBHE Business Case - Economic Case, WMCA - appendices (Nov 2017)
WBHE/D7/B	WBHE Final Business Case Economic Case (Feb 2019)
WBHE/D7/C	WBHE Final Business Case Economic Case - appendices (Feb 2019)
WBHE/D8	'Making our Mark' West Midlands Combined Authority Strategic Economic Plan (2016)
WBHE/D9	Green Book Appraisal and Evaluation in Central Government, HM Treasury (2003 – as updated in 2011)
WBHE/D9/A	Green Book Central Government Guidance on Appraisal and Evaluation
WBHE/D10	Public Sector Business Cases using the Five Case Model - Green Book Supplementary Guidance, HM Treasury (2013)
WBHE/D11	WebTAG Unit Transport Appraisal Process, DfT (Jan 2014)
WBHE/D11/A	WebTAG Unit Transport Appraisal Process Update, DfT (May 2018)
WBHE/D12	WebTAG Unit Proportionate Update Process, DfT (Jan 2014)
WBHE/D13	WebTAG Adopted Unit A1.1 Cost Benefit Analysis, DfT (Nov 2014)
WBHE/D13/A	WebTAG Unit A1.1 Cost Benefit Analysis, DfT (May 2018)
WBHE/D14	WebTAG Adopted Unit A1.2 Scheme Costs, DfT (Nov 2014)
WBHE/D14/A	WebTAG Unit A1.2 Scheme Costs, DfT (July 2017)
WBHE/D15	WebTAG Adopted Unit A1.3 User and Provider Impacts, DfT (Nov 2014)
WBHE/D15/A	WebTAG Unit A1.3 User and Provider Impacts, DfT (Mar 2017)
WBHE/D16	WebTAG Adopted Unit A2.1 Wider Impacts, DfT (Jan 2014)
WBHE/D16/A	WebTAG Unit A2.1 Wider Economic Impacts Appraisal, DfT (Sept 2018)
WBHE/D16/B	WebTAG Unit A2.1 Wider Economic Impacts Appraisal, DfT (May 2018)



WBHE/D17	WebTAG Adopted Unit A2.2 Regeneration Impacts, DfT (Jan 2014)
WBHE/D17/A	WebTAG Unit A2.2 Appraisal of Induced Investment Impacts, DfT (Sept 2016)
WBHE/D17/B	WebTAG Unit A2.2 Appraisal of Induced Investment Impacts, DfT (May 2018)
WBHE/D18	WebTAG Adopted Unit A4.2 Distributional Impact Appraisal, DfT (Dec 2015)
WBHE/D19	WebTAG Adopted Unit A2.3 Transport Appraisal in the Context of Dependent Development, DfT (Jul 2016)
WBHE/D19/A	WebTAG Unit A2.3 Appraisal of Employment Effects, DfT (Sept 2016)
WBHE/D19/B	WebTAG Unit A2.3 Appraisal of Employment Effects, DfT (May 2018)
WBHE/D20	WebTAG Adopted Unit A2.4 Appraisal of Productivity Impacts, DfT (Sept 2016)
WBHE/D20/A	WebTAG Unit A2.4 Appraisal of Productivity Impacts, DfT (May 2018)
WBHE/D21	WebTAG Adopted Unit A3 Environmental Impact Appraisal, DfT (Dec 2015)
WBHE/D22	WebTAG Adopted Unit A4.1 Social Impact Appraisal, DfT (Nov 2014)
WBHE/D22/A	WebTAG Unit A4.1 Social Impact Appraisal, DfT (Dec 2017)
WBHE/D23	Transport Business Case Guidance, DfT (Jan 2013)
WBHE/D24	VfM Advice Note for Local Transport Decision Makers, DfT (Dec 2013)
WBHE/D24/A	Value for Money Framework, DfT (Jul 2017)
WBHE/D25	Monitoring and Evaluation Framework for Local Authority Major Schemes, DfT (Sept 2012)
WBHE/D26	Best Practice Guidance for Planning the Fuller Evaluations of Local Authority Major Schemes, DfT (2013)
WBHE/D27	<i>[Not used]</i>
WBHE/D28	Wednesbury to Brierley Hill Metro Extension Economic Impact Assessment (Aug 2017)
WBHE/D29	WMCA Investment Prospectus Inserts (undated)
WBHE/D30	Response to DfT Queries on Outline Business Case Note on Land Uplift (Nov 2017)
WBHE/D31	Study for the Brierley Hill Regeneration Partnership, Hunt Dobson (Autumn 2002)
WBHE/D32	The Economic Impact of the Expansion of Brierley Hill/Merry Hill, Regeneris (2006)
WBHE/D33	English Index of Multiple Deprivation Guidance (2015)
WBHE/D34	Black Country Growth Deal (Jul 2014)
WBHE/D35	Greater Birmingham and Solihull Growth Deal (2014)
WBHE/D36	Black Country Factsheet (3 Mar 2017)
WBHE/D37	Greater Birmingham and Solihull Factsheet (3 Mar 2017)
WBHE/D38	SDG Options Assessment Report - as appended to the Strategic Case (Feb 2010)
WBHE/D39	Letter of Support - Black Country LEP (Nov 2017)
WBHE/D40	Letter of Support - Portersfield (Nov 2017)
WBHE/D41	Letter of Support - Dudley College (Nov 2017)
WBHE/D42	WebTAG DataBook Version 1.9.7, DfT (Mar 2017)
WBHE/D42/A	WebTAG Unit WebTAG Databook, DfT (Dec 2018)

<b>POLICY DOCUMENTS</b>	
WBHE/E1	West Midlands Local Transport Plan 2011-2026 Making the Connections, Centro (2011)
WBHE/E2	The Midlands Engine for Growth Prospectus (2015)
WBHE/E3	The European Commission Transport White Paper 2011: Roadmap to a Single European Transport Area – Towards a Competitive and Resource Efficient Transport System (2011)
WBHE/E4	Black Country Rapid Transit Study (2015)
WBHE/E5	Towards a World Class Integrated Transport Network, Centro (Apr 2013)
WBHE/E6	Integrated Public Transport Prospectus (Jan 2010)
WBHE/E7	Unlocking the Benefits HS2 Connectivity Programme (Jul 2015)
WBHE/E8	National Planning Policy Framework (NPPF) (2018)
WBHE/E9	WMCA Transport Plan 2017-2018 (May 2017)
WBHE/E10	West Midlands Strategic Transport Plan: Movement for Growth, West Midlands Combined Authority (Jun 2016)
WBHE/E11	Creating Growth, Cutting Carbon: Making Sustainable Local Transport Happen, White Paper, DfT (Jan 2011)
WBHE/E12	Guidance on Compulsory Purchase Process and The Crichele Down Rules for the Disposal of Surplus Land, DCLG (February 2018)
WBHE/E13	Building Our Industrial Strategy Green Paper (Jan 2017)
WBHE/E14	'High Speed 2: Get Ready' HS2 Growth Taskforce, DfT (Mar 2014)
WBHE/E15	Midlands Connect Strategy Powering the Midlands Engine (Mar 2017)
WBHE/E16	Roadmap to a Single European Transport Area - Towards a Competitive and Resource Efficient Transport System: European Commission Transport White Paper (Mar 2011)
WBHE/E17	Midlands Connect Strategy: Powering the Midlands Engine - Our Routes to Growth (Jul 2018)
WBHE/E18	HS2 Growth Strategy Accelerating the UK's Engine of Growth (Jul 2015)
WBHE/E19	HS2 Unlocking the Benefits West Midlands Connectivity Package, Centro (2013)
WBHE/E20	Guide to Transport and Works Act Procedures, DfT (2006)
WBHE/E21	Transport Investment Strategy (Jul 2017)
WBHE/E22	Movement for Growth: 2026 Delivery Plan for Transport (Sept 2017)
WBHE/E23	Black Country Core Strategy (Feb 2011)
WBHE/E24	Black Country Core Strategy (Feb 2011) - Appendices 1, 3, 4, 5, 6, 7, 8 and 9
WBHE/E25	Black Country Core Strategy (Feb 2011) - Appendix 2
WBHE/E26	The Black Country Core Strategy Review – Issues and Options (June 2017)
WBHE/E27	Dudley Borough Development Strategy (Mar 2017)
WBHE/E28	Dudley Area Action Plan (Mar 2017)
WBHE/E29	Brierley Hill Area Action Plan (Aug 2011)
WBHE/E30	Site Allocations and Delivery Development Plan Document, Sandwell MBC (Dec 2012)
WBHE/E31	Black Country Capacity Review (May 2018)

WBHE/E32	West Midlands Industrial Strategy – Consultation Document (Sept 2018)
WBHE/E33	Blackbrook Valley Area Local Development Order (2018)
WBHE/E34	Black Country Strategic Economic Plan (Mar 2017)
WBHE/E35	West Midlands Combined Authority Strategic Economic Plan 2030 (Mar 2016)
WBHE/E36	Looking Forward: The Black Country in 2033 (May 2003)
WBHE/E37	Castle Hill and Dudley Town Centre Phases 1 and 2 map (Aug 2018)
WBHE/E38	DY5 Dudley's Business and Innovation Enterprise Zone (undated)
WBHE/E39	Black Country Strategic Economic Plan (Mar 2014)
WBHE/E40	Dudley Port Supplementary Planning Document (Dec 2017)
WBHE/E41	<i>Not used</i>
WBHE/E42	Garden City Prospectus, Black Country LEP (2015)
WBHE/E43	Sandwell Infrastructure Delivery Programme (Jun 2013)
WBHE/E44	Movement for Growth - The West Midlands Strategic Transport Plan Summary (Jun 2016)
<b>PRE-INQUIRY DOCUMENTS</b>	
WBHE/F1	Dudley MBC (SUPP/01)
WBHE/F2	Association of Black Country Local Authorities (SUPP/02)
WBHE/F3	Dudley Zoological Gardens (SUPP/03)
WBHE/F4	Dudley Canal and Tunnel Trust (SUPP/04) (Feb 2018)
WBHE/F5	Statement of case submitted by applicant, WMCA (11 Dec 2018)
WBHE/F6	Dudley MBC discharge of conditions (17 Jun 2009)
WBHE/F7	Deed of Unilateral Undertaking to Jewson Ltd, Saint Gobain and SGBD Property Holdings Ltd – re OBJ 05 (4 Dec 2018)
WBHE/F8	Deed of Unilateral Undertaking to Jessop Europe Ltd – re OBJ 07 (4 Dec 2018)
WBHE/F9	Deed of Unilateral Undertaking to Tata Steel – re OBJ 10 (4.12.18)
WBHE/F10	Deed of Unilateral Undertaking to Waterstones Booksellers Ltd – re OBJ 11 (4 Dec 2018)
WBHE/F11	Deed of Unilateral Undertaking to Motor Fuel Group Ltd – re OBJ 15 (4 Feb 2019)
WBHE/F12	Deed of Unilateral Undertaking to McDonalds Restaurants Ltd and others – re OBJ 20 (28 Nov 2018)
WBHE/F13	Deed of Unilateral Undertaking to Argos Ltd – re OBJ 21 (6.12.18)
WBHE/F14	Deed of Unilateral Undertaking to TJX UK – re OBJ 22 (6 Dec 2018)
WBHE/F15	Bus Passenger Survey Spring 2018 West Midlands Area, Transport Focus (10 Aug 2018)
WBHE/F16	Tram Passenger Survey Midland Metro Autumn 2017 Results, Transport Focus (Mar 2018)
WBHE/F17	Midland Metro Centro Street Design Guide, Gillespies (18 Nov 2005)
WBHE/F18	Dudley MBC Approval of Street Design Guide (7 Dec 2005)
WBHE/F19	Sandwell MBC Approval of Street Design Guide (19 Dec 2005)
WBHE/F20	Junction Capacity Assessments Summary Report (Jul 2016) [SEPARATE FOLDER]

WBHE/F21	West Bromwich Area Action Plan (adopted Dec 2012)
WBHE/F22	Discharge of Planning Condition 2 Letter Dudley MBC (27 Apr 2018)
WBHE/F23	Discharge of Planning Condition 2 Email Sandwell MBC (1 Aug 2018)
WBHE/F24	The Transport and Works Inquiry Procedures Rules 2004
WBHE/F25	WebTAG Unit M3.1 Highway Assignment Modelling (Jan 2014)
WBHE/F26	Felixstowe Branch Line Land Acquisition Order Decision Letter (22 Aug 2017)
WBHE/F27	Dudley MBC - approval of Code of Construction Practice Part 1 (3 Oct 2005)
WBHE/F28	Sandwell MBC - approval of Code of Construction Practice Part 1 (29 Sept 2005)
<b>WMCA PROOFS OF EVIDENCE</b>	
<b>Scheme Overview – Peter Adams</b>	
APP/P1.1	Proof of evidence for Scheme Overview
APP/P1.2	Summary proof for Scheme Overview
APP/P1.3	Appendices to proof for Scheme Overview
APP/P1.4	Supplementary proof (5 Mar 2019)
APP/P1.5	Appendices to supplementary proof (5 Mar 2019)
APP/P1.6	Further supplementary proof (15 Mar 2019)
APP/P1.7	Appendices to further supplementary proof (15 Mar 2019)
<b>Transport &amp; Economic Case - David Carter</b>	
APP/P2.1	Proof of evidence for Transport & Economic Case
APP/P2.2	Summary proof for Transport & Economic Case
APP/P2.3	Appendices to proof for Transport & Economic Case
APP/P2.4	Supplementary proof (5 Mar 2019)
<b>Civil Engineering – Ian Collins</b>	
APP/P3.1	Proof of evidence for Civil Engineering
APP/P3.2	Summary proof for Civil Engineering
APP/P3.3	Appendices to proof for Civil Engineering
<b>Transport Modelling – Himanshu Budhiraja</b>	
APP/P4.1	Proof of evidence for Transport Modelling
APP/P4.2	Summary proof for Transport Modelling
APP/P4.3	Appendices to proof for Transport Modelling
<b>Town Planning – Paul Ellingham</b>	
APP/P5.1	Proof of evidence for Town Planning
APP/P5.2	Summary proof for Town Planning
APP/P5.3	Appendices to proof for Town Planning
<b>Land Acquisition – Bruce Fowler</b>	
APP/P6.1	Proof of evidence for Acquisition Surveyor
APP/P6.2	Summary proof for Acquisition Surveyor

<b>WMCA REBUTTALS</b>	
APP/R1.1	Rebuttal to David van der Lande (re Intu OBJ 10)
APP/R1.2	Appendices to rebuttal to David van der Lande (re Intu OBJ 10)
APP/R2.1	Rebuttal to Jonathan Parker (re Intu OBJ 10)
APP/R2.2	Appendices to rebuttal to Jonathan Parker (re Intu OBJ 10)
APP/R3.1	Rebuttal to Mr Weller's objection (OBJ 25/L)
APP/R3.2	Appendices to rebuttal to Mr Weller (OBJ 25/L)
<b>FURTHER DOCUMENTS SUBMITTED DURING THE INQUIRY</b>	
APP/INQ 1.1	Revised Draft Order – clean copy (Mar 2019)
APP/INQ 1.2	Revised Draft Order - tracked changes (Mar 2019)
APP/INQ 1.3	Revised Draft Order – with explanatory comments (Mar 2019)
APP/INQ 2.1	Revised Book of Reference – clean copy (Mar 2019)
APP/INQ 2.2	Revised Book of Reference - tracked changes (Mar 2019)
APP/INQ 3	Revised Land Plans - complete set (Mar 2019)
APP/INQ 4	WMCA Opening Statement (19 Mar 2019)
APP/INQ 5.1	Compliance Documents (Mar 2019) [SEPARATE FOLDER]
APP/INQ 5.2	Note in relation to compliance with Rule 13(6) (Mar 2019)
APP/INQ 6	Correspondence with remaining objectors (Mar 2019) [SEPARATE FOLDER]
APP/INQ 7	Update on Objections and Status of Negotiations (19 Mar 2019)
APP/INQ 8	List of WMCA witnesses with professional qualifications (19 Mar 2019)
APP/INQ 9.1	Merry Hill Shopping Centre leaflet
APP/INQ 9.2	Plan showing Merry Hill principal access routes (as provided to objectors)
APP/INQ 10	WMCA Closing Submissions (19 Mar 2019)
APP/INQ 11	Compliance Note regarding Local Authority Notices (submitted 28 Mar 2019)
APP/INQ 12.1	Note relating to the Minutes of WMCA Board Meeting held on 22 Mar 2019 (submitted 29 Mar 2019)
APP/INQ 12.2	Draft Minutes WMCA Board Meeting held on 22 Mar 2019 (submitted 29 Mar 2019)
<b>OBJECTIONS &amp; LETTERS OF SUPPORT</b>	
<b>Objections</b>	
OBJ 01	Enovert North Ltd (previously Cory Environmental)
OBJ 01/WD	Enovert North Ltd (previously Cory Environmental) – withdrawal letter (16 Feb 2018)
OBJ 02	Valerie Nash
OBJ 02/WD	Valerie Nash - withdrawal letter (9 Mar 2018)
OBJ 03	Zayo Group Limited
OBJ 03/WD	Zayo Group Limited - withdrawal letter (29 May 2018)
OBJ 04	Network Rail

OBJ 04/WD	Network Rail - withdrawal letter (22 Oct 2018)
OBJ 05	Jewson Ltd, Saint Gobain and SGBD Property Holdings
OBJ 05/WD	Jewson Ltd, Saint Gobain and SGBD Property Holdings – withdrawal letter (14 Feb 2019)
OBJ 06	LCP Estates
OBJ 06/WD	LCP Estates – withdrawal letter (15 Feb 2019)
OBJ 07	Jessops Europe Ltd
OBJ 08	John Holden and David Hutchinson
OBJ 08/WD	John Holden and David Hutchinson - withdrawal letter (13 Jul 2018)
OBJ 09	Tata Steel UK Ltd
OBJ 09/WD	Tata Steel UK Ltd – withdrawal letter (27 Feb 2019)
OBJ 10	Intu and others
OBJ 10/WD	Intu and others – withdrawal letter (12 Mar 2019)
OBJ 11	Waterstones
OBJ 12	Done Brothers (Cash Betting) Ltd
OBJ 12/WD	Done Brothers (Cash Betting) Ltd - withdrawal letter (1 Aug 2018)
OBJ 13	National Grid
OBJ 13/WD	National Grid – withdrawal letter (15 Mar 2019)
OBJ 14	Marston's Plc
OBJ 14/WD	Marston's Plc - withdrawal letter (16 May 2018)
OBJ 15	Malthurst Group
OBJ 15/WD	Malthurst Group - withdrawal letter (6 Mar 2019)
OBJ 16	Pizza Express (Restaurants) Ltd
OBJ 16/WD	Pizza Express (Restaurants) Ltd - withdrawal letter (13 Sept 2018)
OBJ 17	AS Watson (Health & Beauty) Ltd
OBJ 17/WD	AS Watson (Health & Beauty) Ltd – withdrawal letter (20 Nov 2018)
OBJ 18	Serco Ltd
OBJ 18/WD	Serco Ltd - withdrawal letter (21 Mar 2018)
OBJ 19	Royal Mail Group Ltd
OBJ 19/WD	Royal Mail Group Ltd - withdrawal letter (6 Mar 2018)
OBJ 20	McDonalds
OBJ 21	Argos Ltd
OBJ 21/WD	Argos – withdrawal letter (15 Mar 2019)
OBJ 22	TJX UK – withdrawal letter
OBJ 22/WD	TJX UK – withdrawal letter (19 Mar 2019)
OBJ 23	Bridgewater Pension Trustees Limited and Metallisation Ltd
OBJ 23/WD	Bridgewater Pension Trustees Ltd and Metallisation Ltd – withdrawal letter (23 Nov 2018)
OBJ 24	Canal and River Trust (22 May 2018)
OBJ 24/WD	Canal and River Trust – withdrawal letter (23 Jan 2019)
OBJ 25/L	Mr Tim Weller (late objection - 12 Mar 2019)

<b>Letters of Support</b>	
SUPP 01	Dudley MBC (also WBHE/F1)
SUPP 02	Association of Black Country Local Authorities (also WBHE/F2)
SUPP 03	Dudley Zoological Gardens (also WBHE/F3)
SUPP 04	Dudley Canal and Tunnel Trust (Feb 2018) (also WBHE/F4)
SUPP 05/L	Black Country Living Museum (late rep - 13 Mar 2019)
SUPP 06/L	The Village Hotel Dudley (late rep - 14 Mar 2019)
SUPP 07/L	Dudley College of Technology (late rep – 14 Mar 2019)
<b>STATEMENTS OF CASE (OBJECTORS)</b>	
OBJ 06/SOC	LCP Estates statement of case
OBJ 07/SOC	Jessops Europe Ltd statement of case
OBJ 10/SOC	Intu Plc statement of case
OBJ 13/SOC	National Grid Electricity Transmission Plc statement of case
<b>PROOFS OF EVIDENCE (OBJECTORS)</b>	
<b>Intu Plc</b>	
OBJ 10/P1.1	Proof of evidence by David van der Lande
OBJ 10/P1.2	Appendices to proof by David van der Lande
OBJ 10/P1.3	Summary proof by David van der Lande
OBJ 10/P2.1	Proof of evidence by Jonathan Parker – Transport
OBJ 10/P2.2	Summary proof by Jonathan Parker – Transport
<b>FURTHER WRITTEN REPRESENTATIONS (OBJECTORS)</b>	
<b>Jessop Europe Ltd</b>	
OBJ 07/W1	Further written representation (18 Feb 2019)
OBJ 07/W2	Update letter maintaining objection (14 Mar 2019)
<b>MacDonald's Restaurants Ltd, Astrad Ltd &amp; AR Sirkhat</b>	
OBJ 20/W1	Further written representation (12 Feb 2019)
<b>Argos Ltd</b>	
OBJ 21/W1	Further written representation (19 Feb 2019)
<b>TJX UK</b>	
OBJ 22/W1.1	Further written representation – letter to Programme Officer (7 Feb 2019)
OBJ 22/W1.2	Further written representation – letter to TWAU Unit (7 Feb 2019)
OBJ 22/W1.3	Further written representation – letter to P Clarke, MMA (7 Feb 2019)
OBJ 22/W1.4	Further written representation – draft changes to Undertaking
OBJ 22/W2.1	Information on progress of discussions – email from TJX UK (6 Mar 2019)
OBJ 22/W2.2	Letter from Winckworth Sherwood to TJX UK (18 Feb 2019)
OBJ 22/W2.3	TJX UK response to Winckworth Sherwood (4 Mar 2019)

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<b>GENERAL INQUIRY DOCUMENTS</b>	
GEN 1	Transport & Works Act Orders - Brief Guide (13 Jul 2018)
GEN 2	TWAO Unit letter informing applicant of decision to hold inquiry (30 Oct 2018)
GEN 3	Statement of Matters (17 Jan 2019)
GEN 4	Inspector's Pre-Inquiry Note (4 Feb 2019)
GEN 5	List of Applicant's Witnesses (5 Feb 2019)
GEN 6	Inspector's Note on Close of Inquiry
GEN 7	Confirmation from TWAOU that no further representations received (27 Mar 2019)
GEN 8	Final schedule of objections and supports (29 Mar 2019)
GEN 9	Programme Officer's letter announcing formal inquiry closure (1 April 2019)