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Your Ref:

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Dear Sirs,

TRANSPORT AND WORKS ACT 1992: APPLICATION FOR THE PROPOSED MIDLAND METRO (BIRMINGHAM EASTSIDE EXTENSION) ORDER AND DEEMED PLANNING PERMISSION

1. I am directed by the Secretary of State for Transport to say that consideration has been given to the report of the Inspector, Mr Martin Whitehead LLB, BSc (Hon) CEng, MICE, who held a public Inquiry on 22 and 23 November 2017, into the application made by your clients the West Midlands Combined Authority ("WMCA") for:

(a) the Midland Metro (Birmingham Eastside Extension) Order to be made under sections 1 and 5 of the Transport and Works Act 1992 ("TWA"); and

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

2. The Order, if made, and the Planning Direction, if made, would confer the necessary powers on the WMCA to construct, operate and maintain an extension to the existing Midland Metro tramway in Birmingham City Centre from Bull Street, over Albert Street and Moor Street Queensway, along New Canal Street and Meriden Street to Digbeth and High Street Deritend; and to acquire compulsorily land and rights over land, extinguish private rights, use land temporarily and carry out such other works as may be necessary or expedient in connection with the tramway.

3. Enclosed with this letter is a copy of the Inspector's report. The Inspector's conclusions are set out in paragraphs 8.1 to 8.34 and his overall conclusions are set out in

paragraphs 8.35 to 8.37. The Inspector's recommendations are set out in paragraph 9 of the report.

4. In making this application, WMCA complied with the publicity requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 ("the 2006 Rules"). This included serving copies of the application and the accompanying documents on the persons specified in the 2006 Rules and making the documents available for public inspection. As also required by the 2006 Rules, WMCA displayed and published notices giving information about the application and how to make representations and served notice on those whose rights over land would be extinguished under the Order.

Summary of Inspector's recommendations

5. The Inspector recommended that the Order should be made, subject to modifications, and that deemed planning permission be granted subject to conditions.

Summary of the Secretary of State's decision

6. For the reasons given in this letter, **the Secretary of State has decided to make the Order with modifications, and to give the Planning Direction, subject to the conditions set out in Annex 1 to this letter.**

Secretary of State's consideration

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

Aims and need for the proposed Midland Metro (Birmingham Eastside Extension) Order Scheme ("the scheme")

8. The Inspector considered that the need for the scheme had been established by the WMCA's statement of aims which included providing access to the proposed HS2 Curzon Street Station, providing economic benefits in the Eastside area of Birmingham, linking proposed key developments in the area to Birmingham City Centre and improving access to labour and skills. The Secretary of State notes that the Inspector was satisfied that the Birmingham Eastside Extension would achieve those aims (IR 3.3 and IR 8.2).

9. The Secretary of State notes that no party contested the need for the scheme and that the appraisal of the benefits indicated it was in the range of being 'very high' value for money. The scheme would stimulate regeneration in Digbeth and help to deliver the benefits envisaged in the Birmingham Curzon HS2 Masterplan for Growth with new jobs, homes and employment space, which would boost the economy (IR 3.5 and IR 8.3). The Secretary of State is satisfied that the aims and need for the scheme are clearly established.

The main alternative options considered by WMCA and the reasons for choosing the proposals comprised in this scheme.

10. The Secretary of State has noted that a number of alternative modes of transport and route options had been considered by WMCA in the context of the current scheme. These are detailed at IR 3.8 to IR 3.12. He has taken note of the Inspector's comments that the proposed scheme would be the most appropriate mode to ensure that there would be a good link with the existing and proposed Midland Metro network, but would also include catenary free running on substantial sections of the proposed route with the associated visual benefits. The Secretary of State has further noted the Inspector's comments that the uncontested benefits of the proposed route in relation to the alternative routes considered would be lower costs, faster journey time, less potential of journey delays and fewer impacts on the local highway and bus networks. The Secretary of State agrees with the Inspector's conclusions of these matters (IR 8.4).

Consistency with the National Policy Planning Framework ("NPPF"), National Transport Policy, and Local Transport, environmental and local planning policies

11. The Secretary of State agrees with the Inspector's assessment at IR 8.6 to IR 8.8 of the extent to which the scheme complies with the NPPF, the recently adopted Birmingham Development Plan, the 2026 Delivery Plan for Transport and the Birmingham HS2 Masterplan for Growth. The Secretary of State notes the Inspector's view that the scheme would assist in promoting sustainable transport modes, increase the choice given to people as to how they travel, assist in reducing Greenhouse Gas emissions, reduce congestion and would represent a significant investment in transport to serve the proposed HS2 station and areas of development (IR 8.6).

12. The Secretary of State is aware that since the Inspector's report was received, the Ministry of Housing, Communities and Local Government (MHCLG) published an updated version of the NPPF in July 2018 and February 2019. While it is recognised that the Inspector's consideration reflects the previous versions of the NPPF, the Secretary of State is satisfied that those comments and considerations remain valid. The Secretary of State is content that there is nothing in the updated versions of the NPPF that would affect his view of the Inspector's recommendation and so agrees with the Inspector's conclusions that the proposed scheme would be compliant with the relevant development plan, the NPPF, national transport policies and with local transport, environmental and planning policies (IR 8.8).

Impacts on Landowners and Tenants, Local Residents and Businesses, General Public, Utility Providers and Statutory Undertakers

Noise, dust and vibration and impacts on local road networks, bus services, access to businesses and car parking

13. The Secretary of State has had regard to the noise and vibration effects that were subject to specific consideration in the update to the Environmental Statement (ES) (IR 3.19). The Inspector's consideration of these impacts is set out in IR 8.9 to IR 8.14. The Secretary of State has taken account of the noise impacts that would be likely to arise due to construction activities at sensitive receptors immediately adjacent to the proposed route during some stages of the works in relation to the excavation of the carriageway for track

formation, the installation of rails and road surface works. The Inspector noted that the effects of noise during construction were predicted to be significant at four locations and significant at six locations in relation to vibration. The Secretary of State notes that mitigation would be provided by employing “best practicable means” and through the Code of Construction Practice (CoCP) secured through a planning condition (Condition 6) to ensure that the adverse effects due to noise and vibration during construction would not be significant. The Secretary of State has had regard to the Inspector’s conclusion that the use of the measures in the CoCP would be effective (IR 8.9) and the Secretary of State has no reason to disagree with this.

14. The Secretary of State agrees with the Inspector’s view that the operation of the tram is predicted to result in no significant adverse effects on any receptors due to noise and vibration and that the Inspector was satisfied that with mitigation secured through a planning condition (Condition 13), the likely non-compliance with the standards for ground-borne noise at 3 non-residential receptors would be addressed. The Secretary of State agrees with the Inspector that the mitigation would ensure that there would be no unacceptable harm caused by noise or vibration (IR 8.10).

15. The Secretary of State has further noted that construction of the works would cause some disruption to traffic, delay to buses and affect access to property. The Secretary of State noted that the Inspector considered that these effects would be temporary and careful phasing of the works would be able to minimise any problems. The Secretary of State notes that the WMCA has accepted the need for further work to ensure that access to properties would be maintained and he agrees with the Inspector’s view that that there is nothing to suggest that this would not be satisfactorily achieved (IR 8.11).

16. With regard to the impact on the local road network, the Secretary of State has taken account that the Inspector highlighted that the WMCA’s traffic modelling indicated one junction at Heath Mill Lane/ Liverpool Street had been found to operate over capacity but that it is not directly on the route of the scheme and is shown to have an improvement due to changes in the signals and route of traffic as a result of the scheme (IR 8.12).

17. The Secretary of State has also had regard to terms of the bus services, and that the Inspector indicated that the WMCA’s traffic modelling showed that the scheme would result in reduced delays for buses over the local highway network which led to National Express, one of the main bus operators in the area, withdrawing their objection to the application (IR 8.13).

18. The Secretary of State has taken note of the Inspector’s views that any parking that would be lost as a result of the scheme would not be significant, as much of the proposed route already has parking restrictions along it. The Secretary of State has further noted the Inspector’s view that most of the parking bays and disabled parking that would be lost would be relocated elsewhere and agrees with the Inspector that there would be no unacceptable impact on parking (IR 8.14).

Impacts on flood risk and groundwater, air quality, landscape, ecological, visual amenity and archaeological interests

19. The Secretary of State has noted that there were no objections based on the effect of the proposed scheme on flood risk, air quality, townscape, ecology, heritage assets and

archaeological interests (IR 8.15). The Secretary of State also noted the Inspector's comments that the Environment Agency had withdrawn its representation and that the Inspector was satisfied that with the implementation of the proposed mitigation measures and the requirements of the CoCP during construction, the scheme would not have any unacceptable impacts on the risk of flooding or groundwater. The Secretary of State has no reason to disagree with this conclusion.

20. The Secretary of States has had regard to the Inspector's consideration that the WMCA's ES indicated that no significant adverse air quality or dust effects would occur during the construction or operation of the scheme and that there is a low risk of the scheme affecting the UK's reported ability to comply with the EU Air Quality Directive (IR 8.16). The Secretary of State agrees with this conclusion.

21. The Secretary of State has taken account of the Inspector's conclusions that there would be beneficial effects on the townscape character and that whilst there would be adverse visual impacts during construction and in the first year of operation, these would be temporary and after five years of operation some of the visual impacts would become negligible or minor beneficial (IR 8.17). The Secretary of State notes that the Inspector concluded that there will be no significant adverse effects on the significance of heritage assets, including the two conservation areas, other than affecting the views from the conservation areas on a temporary basis during construction (IR 8.19). The Secretary of State agrees with this conclusion.

22. The Secretary of State is therefore content that with mitigation in place, any impacts on landscape, visual amenity and archaeological interests would be temporary and would not outweigh the benefits of the scheme.

The adequacy of the Environmental Statement ("ES")

23. The Secretary of State agrees with the Inspector that the ES and its update submitted with the Order application is thorough and adequate in terms of the requirements of the 2006 Rules (IR 8.20). The Secretary of State confirms that in reaching his decision on this application, he has complied with the requirements of paragraphs (a) to (c) of section 14(3A) of the TWA relating to the consideration of the ES.

The measures proposed to mitigate any adverse impacts of the scheme

24. The Secretary of State has noted the Inspector's consideration of the measures proposed to mitigate adverse impacts of the schemes as set out at IR 8.21 to IR 8.23. The Secretary of State agrees with the Inspector's conclusions and is satisfied that the conditions in Annex 1 to this letter and in the draft Order would ensure that: any disturbance or inconvenience to the owners, tenants or occupiers of adjacent properties, and the general public, would be minimised during the construction of the scheme; there would be no unacceptable residual environmental effects and adequate protection is provided to statutory undertakers and railway undertakers.

25. Under section 14(3AA) of the TWA, the Secretary of State is required to describe the main measures to avoid, reduce, and if possible, remedy the major adverse environmental impacts of a scheme. In this case the Secretary of State is content that the

main measures to mitigate the effects of the scheme are those set out in the planning conditions set out in Annex 1 to this letter.

Compulsory Purchase Powers

26. MHCLG's Guidance on the Compulsory Purchase Process and the Crichel Down Rules 2015 indicates that the acquiring authority will need to be able to show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation, including any need for consent. Paragraphs 27 - 29 below set out the Secretary of State's consideration of the four remaining objections at the end of the inquiry (three of which have since been withdrawn) in relation to compulsory purchase powers sought through this application. The land of the remaining objector, from Quintain City Park Gate Limited has since been acquired by HS2 Limited and was vested in the Secretary of State on 10 July 2018. The Secretary of State is content that there is no impediment to the scheme in relation to these objections. As set out in paragraph 27 below the Secretary of State is content that sufficient funding would be available to implement the scheme.

27. The Secretary of State has noted that the land defined in the Order Limits of Deviation is no more than is necessary to be acquired or used for the purposes of the proposed scheme. The Secretary of State has taken account that the Inspector was satisfied that the powers being sought to compulsory acquire and use land for the purposes of the scheme are required to secure satisfactory implementation of the scheme. The Secretary of State has taken account of the Inspector's consideration that WMCA would reach agreement with the landowners (IR 8.24). The Secretary of State is satisfied that all the land and rights are necessary for the implementation of the scheme and agrees with the Inspector that the compulsory purchase of the land and rights specified in the Order is justified and is in the public interest (IR 8.25).

Conditions to be attached to the Deemed Planning Permission

28. The Secretary of State agrees with the changes to the revised conditions proposed by the Inspector as set out in IR 8.27 to IR 8.28 and included in Appendix C to the Report. The revised conditions which the Secretary of State intends to attach to the Deemed Planning Direction are set out in Annex 1 to this letter. The Secretary of State agrees with the Inspector that the planning conditions as amended, are relevant and necessary (IR 8.28), and is satisfied that they meet the three tests in paragraph 56 of the NPPF 2019.

Proposals for Funding the Scheme

29. The Secretary of State notes the Inspector's consideration of the estimated scheme costs and proposals for funding at IR 8.29. The Secretary of State also notes that following the submission of the report there was some lengthy consideration of funding from the Local Growth Fund which has only recently been agreed. The Secretary of State is now satisfied that adequate funds should be available for the scheme.

Other Matters

Objections

30. The Secretary of State notes at the close of the Inquiry all but four objections had been withdrawn and that two of these, from McDonald's Limited Real Estate LLP and McDonald's Restaurants Limited and Hotel La Tour had indicated that they were close to reaching an agreement with WMCA and a subsequent withdrawal of their objections (IR 8.30). Both objections were withdrawn on 29 November 2017 and 7 December 2017 respectively. The Secretary of State also notes the support for the Development at IR 4.1 to IR 4.8.29. The remaining two objections from Birmingham City University (BCU) and Quintain City Park Gate Limited both raised the concern that the compulsory acquisition of land would not be justified as the land in question is included in the High Speed Rail (London to West Midlands) Act 2017 (HS2 Act). The Secretary of State further notes that the BCU had argued that the land in which it has an interest is not public open space due to its extant planning permission for development on the land and that it is private land with no specific right of public access. The Secretary of State concurs with the Inspector's view that the applicant has correctly referenced the land to be acquired as currently being "open space" which, if it does not cease to be used for that purpose or the rights are not acquired through agreement it would be subject to SPP.

31. The Secretary of State agrees with the Inspector that the scheme and HS2 proposals would be mutually compatible on the same land as there is no guarantee that the Secretary of State would exercise the powers conferred by the HS2 Act to permanently acquire all the land that it has included. The Secretary of State agrees with this assessment to the extent that the Secretary of State has not already exercised his power to acquire such land for the purposes of the HS2 project. The Applicants amended the Order so that it will have no application to any land or interest that is included in the HS2 Act where the Secretary of State has already exercised this power. With regard to the remaining plots of land that are included in both this Order and the HS2 Act, where the Secretary of State has not yet exercised the powers conferred by the HS2 Act, the Secretary of State is satisfied that the HS2 Act does not confer power to acquire the land for the purposes of a Tramway. The effect of this is that WMCA would not be able to acquire all the necessary rights from the Secretary of State should the land be acquired pursuant to the powers conferred by the HS2 Act. The Secretary of State therefore agrees that the compulsory powers sought through this application are necessary (IR 8.31). The Secretary of State notes that HS2 Ltd fully support the principle of the proposed Order and considers that it should be possible for the requisite rights over relevant Crown land to be granted by the Secretary of State to the WMCA to facilitate the construction and operation of the BEE. The Secretary of State is satisfied that both the scheme and the HS2 project can be satisfactorily implemented in the light of the agreement between the Applicant and HS2, dated 10 March 2017 to support this.

32. The Secretary of State has had regard to the concerns raised in relation to a parcel of land that the WMCA had stated was open space land to be acquired and BCU considered was not public open space, due to its extant planning permission for development on the land. BCU therefore considered this land to be private land with no specific right of access. The Secretary of State has taken note of the Inspector's consideration of the definition of open space and the Inspector's acceptance that the WMCA had correctly referenced the land to be acquired as being open space and if it does not to cease to be used for that

purpose or the rights were not required through agreement, would be subject to the Special Parliamentary Procedure (IR 8.32). The Secretary of State has noted that since the close of Inquiry, an agreement has been put in place between the WMCA and BCU relating to this land to ensure that it was fenced off before 28 February 2018, thereby ceasing to be open space. The Secretary of State received confirmation from Pinsent Masons, the Solicitors acting for WMCA on 1 March 2018 that the land has been fenced off and is therefore no longer capable of being used for the purposes of public recreation. He is satisfied that the parcel of land is no longer open space for the purposes of section 19 of the Acquisition of Land Act 1981 and the Order would not be the subject of Special Parliamentary Procedure.

Secretary of State's overall conclusion and decision

34. The Secretary of State agrees with the Inspector that for all the reasons given above, the Order is justified on its merits and there is a compelling case in the public interest for making it. The Secretary of State is satisfied that the substantial public benefit of the scheme outweighs the harm due to private losses. The Secretary of State has, accordingly, decided to make the Order, subject to a number of minor drafting amendments which do not make a substantial change in the proposals such as would require notification to affected persons under section 13(4) of the TWA, and to give the direction for deemed planning direction subject to the conditions at Annex 1 of the letter which include the modifications set out in IR 8.36.

Notice under section 14 of the TWA

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

Modifications to the Order

36. The following modifications have been made to the Order:

- The Order incorporates your suggested amendments up to the last version received, that is version 4, on 8 August 2019.
- New article 6 (disapplication of legislative provisions) has been inserted. It incorporates what were paragraphs (9) and (10) from article 7.
- Article 13 (stopping up streets) has been amended to reflect the model clause.
- Article 18(1) – the text in rounded brackets 'including any structure carrying the street over or under a tramroad' has been removed as the Scheme has no provision for bridges or tunnels.
- Article 23 (power to survey and investigate land, etc.) has been amended to reflect the notice provisions contained in Part 7 of the Housing and Planning Act 2016.
- Articles 29 (application of Part 1 of the 1965 Act) and 30 (application of the Compulsory Purchase (Vesting Declarations) Act 1981) have been amended to reflect changes made by the Housing and Planning Act 2016.
- Article 44 (traffic regulation) – paragraph (4) has been amended to insert subparagraph (b) to provide safeguards for the traffic authority and reflect the wording of the model clause.

- Article 54 (repeal relating to the 1989 Act) has been subject to minor drafting changes.
- Schedule 5 (modification of compensation and compulsory purchase enactments for creation of new rights) has been amended to reflect changes made by the Housing and Planning Act 2016. Paragraph 6 regarding modifications concerning the Compulsory Purchase (Vesting Declarations) Act 1981 has been removed. There is no equivalent provision in the model clauses and there was no explanation for it in the Explanatory Memorandum to justify its retention.
- Schedule 9 (provisions relating to statutory undertakers etc.) – paragraph 3 does not take account of Schedule 3A of the Communications Act 2003 being fully in force as of 28 December 2017. Please check sub-paragraph (1) to ensure the reference to Part 6 of the electronic communications code is correct and in sub-paragraph (2) that the reference to Part 10 is correct. Sub-paragraph (3) has been amended to reflect the changes and a new definition for “code rights” has been inserted into sub-paragraph (4).

Challenge to Decisions

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

Distribution

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

Yours sincerely,



Susan Anderson

TOWN AND COUNTRY PLANNING ACT 1990

MIDLAND METRO (BIRMINGHAM EASTSIDE EXTENSION) ORDER AND DEEMED PLANNING PERMISSION

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

Time Limit for commencement of development

1. The development shall commence before the expiration of five years from the date that the Order comes into force.

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

Design and external appearance

2. Construction shall not commence in respect of any of the following elements of the development:

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

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

Reason: *To ensure that proper control is exercised over the detailed design of the development in accordance with Policy PG3 of the Birmingham Development Plan 2017, saved paragraphs 3.14 and 3.14D of the Birmingham Unitary Development Plan and the National Planning Policy Framework.*

Landscape

3. Details of all proposed hard and soft landscaping including the programme for the implementation of planting must be submitted to and approved in writing by the local planning authority before the relevant part of the development to which the landscaping in question relates is commenced. These details shall include proposed finished levels or contours, means of enclosure, hard surfacing materials, minor artefacts and structures,

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

Reason: *In order to secure the satisfactory development of the application site, ensure a high quality of external environment and reinforce local landscape character in accordance with Policies TP3, TP7 and PG3 of the Birmingham Development Plan 2017 and saved paragraph 3.14 of the Birmingham Unitary Development Plan 2005.*

Tree protection

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

Reason: *In order to secure the satisfactory development of the application site in accordance with Policies TP7 and PG3 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.*

Archaeology

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

Reason: *To ensure adequate protection and recording of archaeological remains in accordance with saved paragraph 8.36 of the Birmingham Unitary Development Plan 2005 and the National Planning Policy Framework*

Code of Construction Practice

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

planning authority. The development must be carried out in accordance with the approved Code of Construction Practice.

Reason: *To ensure adequate environmental protection during construction and to safeguard the amenities of occupiers of premises in the vicinity of the development in accordance with Policy TP3 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.*

Contaminated land

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

i) A preliminary risk assessment, which has identified:

- all previous uses;
- potential contaminants associated with those uses;
- a conceptual model of the site indicating sources, pathways and receptors; and
- potentially unacceptable risks arising from contamination at the site.

ii) A site investigation scheme, based on (1) above to provide information for a detailed risk assessment of the risk to all receptors that may be affected including those off site.

iii) An options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken, timetable of works and site management procedures.

iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

Reason: *In order to secure the satisfactory development of the application site in accordance with Policy PG3 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.*

Highway access

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

Reason: *In order to secure the satisfactory development of the application site in accordance with Policy PG3 of the Birmingham Development Plan 2017, saved paragraphs 3.14 and 3.14D of the Birmingham Unitary Development Plan 2005 and the National Planning Policy Framework.*

Alterations to the highway

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

Reason: *In order to secure the satisfactory development of the application site in accordance with Policy PG3 of the Birmingham Development Plan 2017, saved paragraphs 3.14 and 3.14D of the Birmingham Unitary Development Plan 2005 and the National Planning Policy Framework.*

Alternations to buildings and structures

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

Reason: *In order to secure the satisfactory development of the application site in accordance with Policy PG3 of the Birmingham Development Plan 2017, saved paragraphs 3.14 and 3.14D of the Birmingham Unitary Development Plan 2005 and the National Planning Policy Framework.*

Levels

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

Reason: *In order to secure the satisfactory development of the application site in accordance with Policy PG3 of the Birmingham Development Plan 2017, saved paragraphs 3.14 and 3.14D of the Birmingham Unitary Development Plan 2005 and the National Planning Policy Framework.*

Drainage

12. No part of the development must take place until a surface water drainage scheme based on sustainable drainage principles and an assessment of the hydrological and hydro-

geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme must be implemented in accordance with the approved details and subsequently maintained.

Reason: *To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of these in accordance with Policies PG3 and TP6 of the Birmingham Development Plan 2017, the Sustainable Management of Urban Rivers and Floodplains Supplementary Planning Document and the National Planning Policy Framework.*

Airborne and Ground-borne noise

13. The development must be designed and operated in accordance with the “*Midland Metro Extension Noise and Vibration Policy*” (February 2014), or any subsequent version of it. For the purposes of the Policy in respect of airborne noise, the pre-existing ambient noise levels must be identified in an up-to-date survey which shall be submitted to and approved in writing by the local planning authority before the commencement of tram services on the tramway authorised by the Order. Where the dominant source of noise is ground-borne, the following noise standard must be applied to the development: inside noise sensitive rooms in residential buildings and noise sensitive rooms in offices – 40 dB LA_{MAX}, slow.

Reason: *To minimise impact from airborne noise and ground-borne noise caused by the running of tramcars in accordance with policy TP37 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.*

Electro-magnetic compatibility

14. The development must be designed and constructed in accordance with the electromagnetic compatibility standards set out in “EN 50121, Parts 1 to 6: *Railway applications – Electromagnetic compatibility*”, or any successor standards.

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

RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA

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

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

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

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

