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6 November 2013

Dear Sirs,

**TRANSPORT AND WORKS ACT 1992:
APPLICATION FOR THE PROPOSED ASHTON VALE TO TEMPLE MEADS AND
BRISTOL CITY CENTRE RAPID TRANSIT ORDER AND DEEMED PLANNING
PERMISSION**

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to say that consideration has been given to the report of the Inspector, Mr C Millns BSc (Hons) MSc CEng FICE FCIHT, concerning the application made on 10 June 2010 by your clients, Bristol City Council and North Somerset Council (together referred to as "the Promoters"), for:

- a. the Ashton Vale to Temple Meads and Bristol City Centre Rapid Transit Order ("the Order") to be made under sections 1, 3 and 5 of the Transport and Works Act 1992 ("TWA"); and
- b. a direction as to deemed planning permission for the development provided for in the Order, to be issued under section 90(2A) of the Town and Country Planning Act 1990.

The Inspector held a public local inquiry into these applications between 22 May and 4 July 2012.

2. The Order if made would authorise the Promoters to construct and operate a guided busway system between the Long Ashton Park and Ride site and Prince Street Bridge in Bristol and the associated realignment of the Bristol Harbour Railway and ancillary matters. In this letter the proposals are referred to as "the AVTM scheme". The Order would also authorise the Promoters to acquire land and rights in land compulsorily for the purposes of the AVTM scheme.

3. Enclosed with this letter is a copy of the Inspector's report. His conclusions are set out at section 7 of the report and his recommendations are at section 8.

Summary of the Inspector's recommendations

4. The Inspector recommended that the Order be made with modifications and that deemed planning permission be granted subject to conditions set out in Appendix C to the report. He also recommended that the Promoters be asked to give due consideration to the matters set out in Appendix H to the report.

Summary of the Secretary of State's decision

5. For the reasons given in this letter, **the Secretary of State has decided to make the Order, with modifications; and to direct that planning permission be deemed to be granted for the development authorised by the Order, subject to the conditions set out in Annex 1 to this letter.**

Linked applications and decisions

6. Concurrently with the inquiry into the Order application, the Inspector held inquiries into the Promoters' applications for a number of listed building and conservation area consents under section 10 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and for a certificate under section 19(1)(a) of the Acquisition of Land Act 1981 in relation to the proposed acquisition of open space land and the land proposed to be given in exchange. In separate letters issued today the Secretary of State for Communities and Local Government ("SoS/CLG") has decided to give the consents and certificate applied for by the Promoters, but he has modified the open space certificate (see paragraph 24 below).

Developments since the public inquiry

7. The Secretary of State is aware that in early 2013 the Mayor of Bristol commissioned a review of the part of the AVTM scheme which would run through the Harbourside area and cross Prince Street Bridge. He understands further that in the light of the review the Mayor decided in June 2013 to pursue an alternative route for the AVTM scheme which would run along Cumberland Road, Commercial Road and Redcliff Hill. You have, however, informed the Secretary of State that the Promoters do not intend to request any changes to be made to the Order for the purposes of implementing such a revised route and wish the Order to be made in the form applied for, subject to the changes proposed at the inquiry.

8. The Secretary of State has accordingly considered whether it is appropriate for him to continue to determine the Order application that is currently before him. In coming to a view on this he has taken into account that the revised route for the AVTM scheme would require an application for planning permission (and possibly other consents) and due consideration by the local planning authority of any representations that are made in response to the application. You have advised also that the revised route may also require the acquisition of new land at Bathurst Basin. He considers, therefore, that at present it remains uncertain whether and if so in precisely what form the revised route would be implemented. The Secretary of State notes also that, if the revised route is

implemented, the powers in the Order would still be required for remainder of the corridor section between Long Ashton Park and Ride site and Cumberland Road.

9. As regards the geographical extent of the powers proposed in the Order that is before him, the Secretary of State is mindful that most of the interests that would be subject to compulsory acquisition under the Order and which would not be required if the revised route were implemented already belong to Bristol City Council. In respect of the two properties not owned by the Council, you have advised that the Promoters have entered into agreements with the freeholders as to the terms on which any compulsory acquisition powers would be exercised. The Secretary of State accepts, therefore, that the implications for landowners of making the Order as applied for, if the revised route were in due course implemented, are limited. He nevertheless considers that the potential for uncertainty and blight affecting the properties in question could be addressed by reducing the duration of compulsory acquisition powers over the relevant plots of land (see paragraph 38 below). In respect of other powers in the Order, the Secretary of State is satisfied that they could only be exercised for the purposes of the authorised works to the extent that those works are taken forward by the Promoters.

10. In all the circumstances, the Secretary of State considers that it would be reasonable for him to determine the Order application as it stands. He does not consider that it is necessary to consult interested parties before coming to a decision on the Order application on the basis of the Inspector's report because, in the Secretary of State's opinion, none of the developments since the inquiry undermine the Inspector's conclusions on the merits of the proposals considered at the inquiry. If the Promoters in due course obtain relevant consents for the revised route and decide not to implement all the powers in the Order he is satisfied that this will not harm the interests of those who would otherwise have been affected by those powers.

Secretary of State's consideration

11. Careful consideration has been given to all the arguments put forward by, or on behalf of, the parties at the inquiry. The Secretary of State's consideration of the Inspector's report is set out in the following paragraphs. For the reasons given above, he has not considered in this context the merits of the revised route now being developed by the Promoters which will be subject to separate statutory approval processes. Numbers in brackets are references to relevant paragraphs of the Inspector's report.

The aims and objectives of, and the anticipated benefits of the scheme

Aims and objectives of the scheme

12. The Secretary of State notes that the scheme is one element of a much wider strategy to address traffic congestion in the City of Bristol which is a significant threat to its economic growth and air quality. He agrees with the Inspector that the objectives for the AVTM scheme identified by the Promoters (at 4.19.4-5) are relevant to the circumstances in Bristol and worth pursuing (7.2, 7.38.2).

Transportation benefits

13. The Secretary of State agrees with the Inspector's detailed assessment of the likely transportation benefits of the scheme, for the reasons given by the Inspector (7.3.1-65). In particular he agrees with the Inspector's conclusions on this matter, which he summarised (at 7.3.64-65) as follows:

"The scheme would provide significant savings in overall journey times for existing and future public transport passengers from the Long Ashton P & R site to the City Centre. The reliability, frequency and quality of the service would be substantially improved and give rise to a significant increase in passenger numbers. The scheme would extend the choice of transport modes and have the potential to serve a much wider community in North Somerset by the transfer of existing and possibly new bus services from this area onto the route. These benefits would accord with the primary objectives of the scheme.

The scope for integration with rail services would be significantly enhanced with a future modification of the scheme at Temple Meads and an interchange with a reopened Portishead line passenger service. Completion of the BRT network would increase the opportunity for integration with other public transport services more generally in the City. The improvements proposed to bus priority on the City Centre loop road are an essential part of the overall project and would benefit users of many other public transport services. The effect of the scheme on the balance between private car and public transport use would be modest in terms of journeys to and from the City Centre. Significant progress on this objective relies on the implementation of the wider transport strategy for the sub-region."

The Secretary of State notes also in this context the economic assessment that the benefits of the overall AVTM scheme considered at the inquiry, including the City Centre works, would substantially outweigh its costs with a benefit to cost ratio which represented "Very Good Value for Money" (7.3.5).

Regeneration, environmental and socio-economic benefits

14. The Secretary of State agrees with the Inspector that some benefits would accrue from increased accessibility to the City Centre and to Temple Quarter Enterprise Zone and that this would be supportive of economic growth (7.3.66). He notes that the environmental benefits of the scheme would include a reduction in greenhouse gases and the refurbishment of a number of heritage features along the route (7.3.67, 7.3.8.8). He agrees further that the socio-economic benefits of the scheme in terms of employment opportunities, improved accessibility and road safety would be positive (7.3.68-7.3.72, 7.3.8.14).

The main alternative options considered by the Promoters

15. The Secretary of State has considered the Inspector's assessment of the alternatives as regards different technologies and route options, both those examined by the Promoters in developing the AVTM scheme and those advanced by other interested parties at the inquiry (7.4.1-28). He agrees with the conclusion reached by the Inspector

on the basis of the evidence submitted to the inquiry that there was no obviously preferable alternative to the proposed scheme both in terms of technologies and route (7.4.29, 7.38.9). As noted at paragraph 7 above, the Secretary of State is aware that the Promoters are now developing an alternative route for the AVTM scheme which would avoid the Harbourside area and Prince Street Bridge. However, as none of the possible planning consents for that route are for decision by him, he makes no comment on the merits of those proposals relative to those in the Order application that is currently before him for decision.

Consistency with national and local planning, transport and environmental policies

16. The Secretary of State agrees with the Inspector that, subject to the necessary balancing between the benefits of the scheme and its likely adverse effects, the AVTM scheme is consistent with Government transport objectives in the National Planning Policy Framework ("NPPF") in that it is part of the wider transport strategy aimed at promoting sustainable transport (7.5.1-5). He agrees also that the scheme is strongly supported by local transport policies, as identified in the Core Strategies for Bristol City Council and North Somerset Council and in the Joint Local Transport Plan for the sub-region (7.5.6-8, 7.38.2).

Likely impacts on local residents, businesses and the environment

17. The Secretary of State agrees with the Inspector's assessment of these impacts as detailed in sections 7.6 to 7.17 of the report, for the reasons given by the Inspector. For the purposes of the Secretary of State's weighing up of the overall benefits against the adverse effects of the AVTM scheme, he notes below the Inspector's main conclusions on these impacts, with which he agrees.

Noise and vibration

18. The Inspector said that there would be some adverse noise and vibration impacts during construction, which would result in disturbance to nearby residents, but that these would be temporary and mostly capable of mitigation through the Code of Construction Practice ("CoCP"). In operation, the Inspector found that there would be no perceptible increase in vibration at residential properties or businesses, while the increases in noise at some locations would cause noticeable disturbance for residents at Landmark Court, to the rear of 77 Cumberland Road, and for users of the Chocolate Path, Ashton Fields and Sylvia Crowe Park (7.6.18).

Air quality

19. The Inspector considered that the likely impacts during construction of dust soiling and particulate concentrations would be controlled through the CoCP (7.7.1-2). As regards operational effects, the Inspector said that a critical factor would be the standard of buses using the route and noted the Promoters' intention to ensure that bus services would be of high quality. Taking that into consideration, he concluded that the scheme would help to improve air quality in Bristol and during its operating life reduce greenhouse gas emissions both on its own account and as part of the wider transport strategy (7.7.3-10).

Impacts on water resources and use of navigable waterways

20. The Inspector was satisfied that the scheme would be acceptable in terms of flood risk, the likely effect on water resources and the potential for contamination (7.8.1-9). As regards the possible temporary closure of waterways during construction of the scheme, the Inspector recommended that the CoCP be updated to include appropriate requirements (7.9.2). He was satisfied that the restrictions on the opening of the Prince Street Bridge were reasonable and necessary (7.9.3).

Landscape, visual amenity and the Green Belt

21. With regard to the alternative routes for the scheme on land at Ashton Fields which is designated Green Belt, the Inspector was satisfied that the proposals constituted "local transport infrastructure" which required a Green Belt location and that neither of the alternative options would constitute inappropriate development in the Green Belt (7.10.5-8). With the exception of the Meridian development where the Inspector considered that a significant impact on the visual amenity of residents would remain due to the proposed works and the movement of buses, he considered that the effects of the scheme on landscape and visual amenity would be largely offset by the mitigation works proposed (7.10.8-12, 7.38.11).

Impacts on archaeology, the setting of listed buildings and the character and appearance of conservation areas

22. The Inspector's detailed assessment of the impacts of the AVTM scheme on heritage assets is at 7.11.3-44. He considered that harm to the archaeology of the route, the City and Queen Square Conservation Area and to the setting of listed buildings in the vicinity could be prevented by the imposition of conditions (7.11.39-40). In particular, as regards the character and appearance of the City Docks Conservation Area, he concluded that this would not be preserved or enhanced by the introduction of bus traffic to the Harbourside area, but that the harm to the significance of the heritage asset would be less than substantial (7.11.44, 7.38.10). In accordance with the NPPF, the Inspector recognised that this harm must be weighed against the public benefits of the scheme.

Impacts on land use and businesses

23. The Inspector reported at 7.13-15 the outstanding objections from landowners and businesses, most of which he considered were capable of resolution. As regards the impact of the scheme at Ashton Fields where alternative alignments are provided for in the Order, depending on whether the new stadium for Bristol City Football Club is constructed, he was satisfied that in the particular circumstances of this case that approach, although unusual, was justified and accorded with guidance (7.13.3-6, 7.38.13). He was satisfied also that adherence to the CoCP would ensure that adequate access arrangements were put in place during the construction phase (7.13.6-7).

Effects on open space and implications of possible designation as Town or Village Green

24. As noted at paragraph 6 above, the SoS/CLG has decided to give the certificate under section 19 of the Acquisition of Land Act 1981 as recommended by the Inspector in relation to the open space land at Ashton Fields required for the AVTM scheme. He has, however, concluded that the land at Bower Ashton referred to as "area D" is not open space and that therefore no certificate under that Act is required in relation to the proposed replacement land (7.16.6-9). With regard to the possible registration as Town or Village Green ("TVG") of the open space at Ashton Fields, the Secretary of State understands that a decision on this by Bristol City Council is still awaited pending a public inquiry into the TVG application. He notes the Inspector's view that the replacement land proposed by the Promoters would be acceptable irrespective of the outcome of the TVG application (7.17.2).

25. The Secretary of State is satisfied that the Order includes appropriate provisions to ensure that, if the open space is designated as TVG before the Promoters acquire that land, the exchange land would be made subject to the same rights, trusts and incidents as would then apply to the land registered as TVG. If, alternatively, the open space is registered as TVG after it has been acquired by the Promoters, he is satisfied that the Order would include necessary powers to enable the scheme to be constructed and operated notwithstanding the registration of the open space as TVG. The Secretary of State agrees with the Inspector that if all of the land at Ashton Fields is registered as TVG and the stadium development does not proceed, the Promoters would need to reassess the provision of suitable pedestrian crossing-points (7.17.3).

Impacts on pedestrians and cyclists

26. The Secretary of State notes that the effect of the scheme on pedestrians and cyclists was a major area of concern to objectors. He agrees with the various conclusions of the Inspector on these matters as set out at 7.18-35 of the report, including the Inspector's recommendations on matters which he considered the Promoters should consider further (see 7.18.3, 10-12, 25, 26 and 30). In particular, he agrees with the Inspector's overall conclusions on these matters (at 7.18.34-35) as follows:

"I do not share the view that the interests of pedestrians and cyclists have not been treated seriously. Existing links would be retained and some significant enhancements are included in the proposals. More generally, the scheme is part of a wider strategy which includes improvements to the walking and cycling network and demand management to control the use of the private car. Concerns about poor detailing of some aspects of cycling and walking provision could be addressed through a planning condition requiring the submission of such details for approval and this is recommended.

In summary, the scheme would have an adverse impact on the enjoyment of some existing routes used by pedestrian and cyclists particularly on the Harbourside and along the Chocolate Path. There would undoubtedly be improvements for pedestrians and cyclists in other areas and some further opportunities which should be explored as highlighted above. On balance, and seen in the context of the overall strategy for the wider area, I consider that the proposals would not conflict with the objectives of the

[National Planning Policy] Framework and local policies which seek to support and encourage walking and cycling. Where there are adverse impacts on these interests, I have weighed them against the scheme benefits in my overall conclusions."

Impacts on road traffic including residential parking provision

27. The Secretary of State notes the Inspector's conclusion that there would inevitably be some delays to existing highway users during construction of the scheme, and that the proposed methods of working would help to lessen the overall impact in this regard. He notes further that, in operation, there would be little change in the operation of key junctions both within the City Centre and along the A370 corridor (7.19.1-3, 8). The Secretary of State is accordingly satisfied that the effects of the scheme on road traffic would be acceptable. However, he also agrees with the Inspector that a detailed assessment of the parking needs of residents on Cumberland Road should be carried out to address concerns about impacts of the scheme on residential on-street parking, as recommended by the Inspector (7.19.6).

Impacts on bus, coach and rail services

28. The Secretary of State agrees with the Inspector that, subject to identifying replacement facilities for coach parking on Cumberland Road, the scheme would have a major beneficial impact on bus services with access to the busway and other services in the City Centre (7.20). As for rail, he is satisfied that the scheme would not adversely affect services on the existing freight line to Portbury or prejudice any proposals for introducing passenger services to Portishead. He agrees also that the arrangements to allow the Bristol Harbour Railway to continue to operate on summer Sundays are satisfactory (7.21).

Ecology

29. The Secretary of State notes the Inspector's conclusion that there would be no significant impact on any regionally, nationally or internationally designated sites; that the effects of the scheme on ecological interests would be largely confined to a narrow corridor; and that those effects would be substantially mitigated by the proposed mitigation works. He notes also the Inspector's view that in relation to the potential effect of the scheme on a pipistrelle bat roost at Ashton Avenue Bridge there was no reason why the necessary licence under the Conservation of Habitats and Species Regulations 2010 would not be given. Taking into account the proposed mitigation works and the controls that would be exercised through the planning conditions, the Secretary of State agrees with the Inspector that the impacts on ecological interests would be acceptable (7.22).

Mitigation measures

30. The Secretary of State agrees with the Inspector's assessment of the proposed mitigation measures and the residual adverse impacts of the scheme (7.23-27). For the purposes of section 14(3AA) of the TWA, the Secretary of State considers that the main measures to avoid, reduce and, if possible, remedy any major adverse environmental effects are those referred to at paragraph 7.26.1 of the report, including the CoCP, the

Funding

35. The Secretary of State agrees with the Inspector, for the reasons given by the Inspector, that there is a reasonable prospect of funding being available for the scheme's construction (7.30). As explained at paragraph 11 above, the Secretary of State has not considered in this letter the merits of the revised route now being developed by the Promoters. He notes, however, that the Department's Local Transport Funding, Growth and Delivery Division confirmed approval on 11 September 2013 for the continued development by Bristol City Council of the revised route. The Secretary of State is satisfied, therefore, that there remain reasonable prospects for the scheme being funded if the revised route is implemented instead of the proposals in the Order.

Compulsory acquisition powers

36. Subject to one qualification, the Secretary of State agrees with the Inspector that, for the reasons given at 7.31.1-3 and having regard to the tests in ODPM Circular 06/2004, there is a compelling case in the public interest for the compulsory purchase of the land required for the AVTM scheme which justifies interfering with the human rights of those with an interest in the land (7.31.4). The qualification is that, since there is no requirement to provide replacement open space land for "area D" at Bower Ashton referred to at paragraph 24 above, the acquisition of plot 03/01 for that purpose is not justified. The Secretary of State notes also that the Promoters have reached agreement with the Crown Estate to ensure access to carry out work to Ashton Avenue Bridge and for a lease for construction works along the New Cut (7.32.1).

Secretary of State's overall conclusion and decision

37. The Secretary of State has weighed up the benefits of the AVTM scheme (as considered at the inquiry) against the adverse effects which would remain after mitigation. He has, like the Inspector, concluded that the transportation and socio-economic benefits of the scheme clearly outweigh the harm that would be caused to heritage assets and the impacts which some residents and other users of the area would suffer (7.38.14). While he notes that the revised route now being developed by the Promoters would avoid the Harbourside area which the Inspector considered to be the most contentious area of impact, as noted at paragraph 11 above, he has not assessed for the purposes of this decision the impacts of the revised route which will be for consideration by relevant authorities in the context of any consents that are required to implement those proposals.

38. The Secretary of State has, accordingly, decided to make the Order as recommended by the Inspector, subject to the following modifications:

- in article 34(3)(a), to delete the reference to plot 03/01 in the definition of "Exchange Land", and in article 34(3)(b)(i) and (ii) to delete the references to plots 05/28, 05/32 and 06/01 in the definition of "Open Space Land" (see paragraphs 24 and 36 above);
- in article 35, to impose a limit of two years on the exercise of compulsory acquisition powers in relation to plots 09/03 and 09/08 to 09/11 to the west of

Construction Environmental Management Plan, and the conditions in Annex 1 to this letter.

31. The Secretary of State agrees with the Inspector that, subject to the amendments to the footpath diversions referred to by the Inspector, the Promoters' proposals for diverting rights of way stopped up under the Order meet the requirements of section 5(6) of the TWA, namely that an alternative right of way has been or will be provided, or that the provision of an alternative right of way is not required (7.25).

Adequacy of Environmental Statement and compliance with statutory procedural requirements

32. The Secretary of State agrees with the Inspector that the Environmental Statement submitted with the application was comprehensive and met the requirements in the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006. He agrees also that the Promoters have complied with all statutory procedural requirements, with the exception of consultation by the Promoters with the Coal Authority (7.28.2-3). Since the close of the inquiry, the Promoters have informed the Secretary of State that the Coal Authority has been notified of the AVTM scheme, that they have carried out ground investigation surveys and that they have recently sent a report of the surveys to the Coal Authority. Having regard to the findings of the phase 1 geotechnical desk study referred to by the Inspector (7.28.3) and the Promoters' intention to take account of the subsequent surveys at the detailed structural engineering design stage (see footnote 75 on page 21 of the report), the Secretary of State considers that it is unnecessary to await a response from the Coal Authority before deciding whether to authorise the AVTM scheme.

33. The Secretary of State confirms that, in reaching his decisions, he has complied with the requirements of paragraphs (a) to (c) of section 14(3A) of the TWA about the consideration of the environmental information.

Planning conditions

34. The Secretary of State agrees with the Inspector that, subject to a number of changes explained below, all the conditions as recommended by the Inspector in Appendix C to the report meet the tests in DOE Circular 11/95 of being necessary, relevant, enforceable, precise and reasonable (7.29.9). The changes which the Secretary of State intends to make to the conditions recommended by the Inspector are as follows:

- in condition 12(i) to remove the words "unless otherwise agreed in writing by the local planning authority" which would result in uncertainty about compliance with the requirements of that condition;
- to insert reasons for each condition; and
- a number of minor drafting changes in the interests of clarity.

The conditions which the Secretary of State intends to attach to the direction as to deemed planning permission are accordingly set out at Annex 1 to this letter.

Wapping Road, and 09/22 on Prince Street Bridge, which would not be required if the revised route were implemented;

- in Schedule 2, delete the entry relating to plot 03/01 (see paragraph 36 above); and
- a number of minor drafting amendments which do not materially alter the effect of the Order.

The Secretary of State considers that none of these modifications would make a substantial change in the proposals such as would require notification to affected persons under section 13(4) of the TWA. The Order will be made following publication of a notice in the London Gazette of the decision to make the Order.

39 The Secretary of State has decided also to direct that planning permission be deemed to be granted for the development provided for in the Order, subject to the conditions set out in Annex 1 to this letter. A letter conveying the direction as to deemed planning permission will issue at the same time as the Order is made.

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

Challenge to decisions

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

Distribution

42. 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 faithfully,



Martin Woods

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

Preamble

In these conditions:

“the busway” means the guided busway as defined in article 2(1) of the Order comprised in Work Nos. 1A, 1B, 2, 3, 5 and 7 and any adjoining emergency and maintenance track;

“compensatory flood storage works” means the flood mitigation works authorised by article 28 of, and Schedule 7 to, the Order on plots numbered 01A/10 and 02A/02 on the Order plans;

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

“the Environmental Statement” means the set of documents of that description submitted with the application for the Order on 10 June 2010;

“the Exchange Land” means the land in North Somerset described in article 34(3)(a) of the Order

“the local planning authority” means Bristol City Council in relation to any part of the development within its administrative area and North Somerset Council in relation to any part of the development within its administrative area;

“the Order” means the Ashton Vale to Temple Meads and Bristol City Centre Rapid Transit Order 2013;

“Order plans” means the plans referred to in the Order and certified by the Secretary of State;

“the rapid transit system” has the same meaning given in the Order;

“Work No.” means one of the different parcels of construction work described in Schedule 1 to the Order.

Time Limits

1. The development hereby permitted shall begin not later than five years from the date the Order comes into force.

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

Access, Layout, Scale and Appearance

2. The following items of development shall not be commenced until, in each case, details of their layout, scale and appearance and, where relevant, access to them, have been submitted to and approved in writing by the local planning authority:

(a) the busway;

(b) any rapid transit stop including associated street furniture and signage;

- (c) any new or altered bridge or associated structure;
- (d) the ramp to Cumberland Road and railings and boundary walls along Cumberland Road and the Chocolate Path, including the extent of re-use of existing railings;
- (e) the formation, laying out or alteration of any means of access to or crossing of any highway used by vehicular traffic;
- (f) the formation, laying out or alteration of any pedestrian or cycle route provided for by the development;
- (g) permanent fencing or any acoustic fencing associated with the rapid transit system;
- (h) culverts and drainage channels;
- (i) any modification to Long Ashton Park & Ride site and its access;
- (j) in Work Nos. 1A and 2 the busway, maintenance track and its supporting embankment and retaining structures adjacent to the site of the proposed Ashton Gate football stadium;
- (k) in Work No. 6 any alterations to the carriageway and footways adjacent to the northern boundary of the Wapping Wharf development;
- (l) any works that would materially affect the appearance of Ashton Avenue Bridge or Prince Street Bridge;
- (m) any proposed restoration or reinstatement works following the demolition of any building within a Conservation Area; and
- (n) any works that would materially affect the appearance of the Bristol Harbour Railway.

Such development shall be carried out in accordance with the approved details.

Reason: to ensure the satisfactory appearance and functioning of the development and in the interests of highway safety, flood mitigation, crime reduction and noise reduction.

Landscaping Scheme and Protection of Trees and Hedges

3. No part of the development shall take place until there has been submitted to and approved in writing by the local planning authority for that part of the development a scheme of hard and soft landscaping, which shall include:

- (a) indications of all existing trees and hedgerows, and details of any to be retained, together with measures for their protection, in the course of development;
- (b) proposed works to trees and hedges to be retained;
- (c) details of any ditches, drains and other water areas to be created or altered;
- (d) proposals for the maintenance of landscaping; and
- (e) details of pavings and street furniture.

The tree and hedge protection measures shall be implemented prior to the commencement of that part of the development and retained during the course of development. The approved hard landscaping shall be implemented in full prior to the opening of the rapid transit system for public use and the soft landscaping scheme shall be implemented in full no later than the first available planting season following the opening of the rapid transit system for public use.

All planted materials shall be maintained for five years from planting and any trees or plants removed, dying, being damaged or becoming diseased within that period shall be replaced in the next planting season with others of similar size and species to those originally required to be planted unless the local planning authority gives written consent to any variation.

Reason: to ensure satisfactory landscaping of the development and to ensure that such landscaping is maintained.

Drainage and Flood management

4. No part of Work No. 1A authorised by the Order shall be commenced until final details of the compensatory flood storage works have been submitted to and approved in writing by the local planning authority.

The compensatory flood storage works shall be implemented in the form that has been approved and completed prior to the opening of the rapid transit system for public use.

Reason: to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

5. Upon completion of the compensatory flood storage works or before the opening of the rapid transit system for public use, whichever is earlier, the applicant shall submit to the local planning authority information of any alterations to ground levels within the limits of deviation for Work No. 1A shown on the Order plans and, if required by the local planning authority following consultation with the Environment Agency, the applicant shall remap the flood plain in accordance with a methodology approved by the Environment Agency.

Reason: to ensure that the flood risk to the route and surrounding area is accurately understood following the proposed works affecting the current flood plain.

6. No part of the development other than the compensatory flood storage works shall be commenced until the implementation of arrangements for the drainage and disposal of foul and surface water and the management of flood risk during construction and operation (other than the compensatory flood storage works) has been secured in relation to that part in accordance with a scheme which has been submitted to and approved in writing by the local planning authority.

The development (other than the compensatory flood storage works) shall be carried out in accordance with the approved scheme and completed prior to the opening of the rapid transit system for public use and thereafter maintained in accordance with the approved scheme.

Reason: to prevent flooding and pollution of the water environment in the interests of amenity by ensuring the provision of a satisfactory means of foul and surface water disposal.

Ecology

7. The development shall not commence until an ecological management and monitoring scheme has been submitted to and approved in writing by the local planning authority. Such scheme shall accord with and give effect to the measures proposed in the Environmental Statement. The development shall be carried out in accordance with the approved ecological management and monitoring scheme.

Reason: to mitigate the ecological impact of the development in the locality of the development in the interests of nature conservation.

8. The area known as Butterfly Junction and shown on plan Ref GAV TMR-0400-029A shall not be used as a construction site during the construction of the development and shall be protected by hoarding or by other appropriate barrier in accordance with a scheme approved by the local planning authority prior to the commencement of Work No 3 authorised by Order.

Reason: to protect the ecology of the area known as Butterfly Junction during construction.

Code of Construction Practice and Construction Environmental Management Plan

9. The development shall not commence until a Code of Construction Practice and a Construction Environmental Management Plan have been submitted to and approved in writing by the local planning authority, which documents shall include details of the following:

- (a) how access for the Environment Agency Operations Delivery team can be provided to the watercourses on the route throughout the construction phases;
- (b) how waste arisings will be minimised through the multiple construction phases through planning ahead and consideration of how the materials can be used efficiently;
- (c) site security;
- (d) fuel oil storage, bunding, delivery and use: any fuels being stored on site during construction must be banded and kept at least 10 metres away from any watercourse;
- (e) how spillages will be dealt with;
- (f) containment of silt/soil contaminated run off;
- (g) disposal of contaminated drainage, including water pumped from excavations;
- (h) site induction for workforce highlighting pollution prevention and awareness.

The Code of Construction Practice shall accord generally with and give effect to the revised draft Code (draft 3b) submitted to the Inquiry into the draft of the Order (Inquiry document OA/174A).

The development shall be carried out in accordance with the approved Code of Construction Practice and Construction Environmental Management Plan.

Reasons: to prevent pollution of the water environment; to ensure access for the Environment Agency; to mitigate environmental impacts arising from the construction of the development; and to preserve local amenity.

Archaeology

10. No part of the development shall be commenced until a written scheme of archaeological evaluation in relation to that part is approved by the local planning authority and, following a review of the results of the evaluation, a programme of archaeological work for that part of the development has been approved in writing by the local planning authority. The development shall be carried out in accordance with that programme.

Reason: to ensure that works are undertaken with due regard to archaeological remains.

Lighting

11. The rapid transit system shall not be brought into public use until a scheme of lighting of all stops, off-highway sections of the rapid transit system route and new and replacement footpaths and cycleways has been implemented in accordance with details, including hours of operation, that have been submitted to and approved in writing by the local planning authority. The lighting shall thereafter be retained and operated in accordance with the approved details.

Reason: in the interests of safety of users, as well as visual and residential amenity.

Contaminated Land

12. In relation to the remediation of contamination on the site of the development:

(i) Development of any part of the site shall not begin until a detailed contamination remediation scheme, to bring that part of the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural environment, including controlled waters, has been submitted to and approved in writing by the local planning authority. The scheme must include a description of the contamination expected to be found on the site, all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, method statements relating to contamination and site management procedures; and in particular must include:

- 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; potentially unacceptable risks arising from contamination at the site;
- a site investigation scheme, based on the risk assessment, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;

- an options appraisal and remediation strategy, based on the site investigation and risk assessment, giving full details of the remediation measures required and how they are to be undertaken;
- a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme must ensure that the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990, in relation to the intended use of the land after remediation.

(ii) The local planning authority must be given 2 weeks' written notification of commencement of the remediation scheme works and the remediation scheme approved under part (i) of this condition shall be carried out in accordance with its terms prior to the commencement of other development works on that part of the site, unless otherwise agreed in writing by the local planning authority.

(iii) Following completion of measures identified in the approved remediation scheme, that part of the development shall not be brought into public use until a verification report that demonstrates the effectiveness of the remediation undertaken has been submitted to and approved in writing by the local planning authority.

(iv) In the event that contamination is found at any time when carrying out the development that was not previously identified within the remediation scheme approved under part (i) of this condition, this must be reported in writing immediately to the local planning authority; remediation of the unexpected contamination shall only be carried out in accordance with a revised remediation scheme (supported by an investigation and risk assessment in accordance with Defra and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11) that has been submitted to and approved in writing by the local planning authority; the revised remediation scheme shall then be implemented and verified respectively in accordance with parts (ii) and (iii) of this condition.

Reason: to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other onsite and offsite receptors.

Diverted Public Footpaths

13. Prior to commencement of any part of the development, details of the proposed diverted and retained public footpaths (including, where relevant, the width and materials for path surfacing, lighting, drainage, fencing, boundary details and associated works and including any works to connect these paths to the public highway) relating to that part of the development shall be submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details prior to the opening of the rapid transit scheme for public use.

Reason: To ensure the altered public footpath network is provided in a satisfactory form and condition to encourage walking.

Access to exchange land

14. The rapid transit system shall not be brought into public use until:

(i) the provision of the Exchange Land as open space has been certified by North Somerset Council as implemented to its satisfaction in accordance with article 34 of the Order;

(ii) the land comprised in plot 01A/05 and 01B/05 on the Order plans has been made available for use by the public as permissive open space and thereby as a permissive access to that part of the Exchange Land comprising plots 01A/01, 01B/01, 02A/01 and 02B/01;

(iii) a scheme of management of the Exchange Land ("the Exchange Land Management Scheme"), has been submitted to and approved in writing by North Somerset Council.

The Exchange Land and the permissive access to it shall thereafter be retained as open space and managed in accordance with the approved Exchange Land Management Scheme.

Reason: to provide additional amenity to the public including access to the exchange land.

Temporary structures

15. The temporary bridge to provide pedestrian and cycle access during the closure of the Prince Street bridge and any other temporary structures provided during the course of construction works shall be removed and their sites returned to their former condition not later than one year after the opening of the rapid transit system for public use.

Reason: to protect amenity and the setting of listed buildings.

END.

RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA

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

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

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

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

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

A person who thinks they may have grounds for challenging the decision to make the Order or the decision to give the direction as to deemed planning permission is advised to seek legal advice before taking any action.

