

EXPLANATORY MEMORANDUM TO
THE MIDLAND METRO (WEDNESBURY TO BRIERLEY HILL LAND
ACQUISITION) ORDER 2020

2020 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport (“DfT”) and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of the instrument, which has been applied for by the West Midlands Combined Authority (“WMCA”), is to renew the same powers of compulsory land acquisition as those conferred by the Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (“the 2005 Order”). These include powers to take temporary possession of land, or to acquire rights over land, either permanently or temporarily. The land is located within the administrative areas of Sandwell Metropolitan Borough Council and Dudley Metropolitan Borough Council.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The instrument is a Transport and Works Act Order (“TWA”) and is subject to special parliamentary procedure by virtue of section 12 of the Transport and Works Act 1992 (“the TWA”) as it authorises the compulsory purchase of open space without the provision of suitable land in exchange.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is not subject to parliamentary procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business.

4. Extent and Territorial Application

- 4.1 This instrument applies locally.

5. European Convention on Human Rights

- 5.1 As the instrument is not subject to parliamentary procedure no statement is required.

6. Legislative Context

- 6.1 Part 1 of the TWA makes provision for orders to be made by the Secretary of State to authorise the construction, maintenance and operation of tramways and other light rapid transport systems. Orders made under the TWA may also authorise ancillary matters such as the compulsory acquisition of land, the creation or extinguishment of rights over land and the charging of fares. These Orders are not usually subject to a parliamentary

procedure before they can come into force, except where the special parliamentary procedure applies.

- 6.2 Section 20 of the TWA provides that a body which has power to promote Bills in Parliament may also promote or apply for or object to orders under sections 1 and 3 of the TWA. Section 10(1)(xxix) of the Transport Act 1968 (as amended by the West Midlands Combined Authority Order 2016) and section 239(4A) of the Local Government Act 1972 (as amended by the Local Democracy, Economic Development and Construction Act 2009) empower the WMCA to promote Bills in Parliament. The WMCA therefore has power to apply for a TWAO.
- 6.3 Under the TWA, a TWAO is made by the Secretary of State following the completion of the procedures set out in that Act and rules made under it.
- 6.4 The Secretary of State may cause a public local inquiry to be held into a TWAO pursuant to section 11 of the TWA. Where the Secretary of State does so, the inquiry is subject to procedure rules made by the Lord Chancellor under section 9 of the Tribunals and Inquiries Act 1992. In this case, an inquiry was held under the Transport and Works (Inquiries Procedure) Rules 2004.
- 6.5 After considering the objections and other representations made, the inquiry Inspector recommended that the Order should be made. The Secretary of State agreed with this recommendation and made the Order on 2nd July 2020.
- 6.6 Part of the land which is subject to the instrument falls within the definition of “open space” under section 19(4) of the Acquisition of Land Act 1981 (“the ALA”). In such cases, section 19(1) of the ALA and section 12(1) of the TWA contain specific provisions that must be complied with before a TWAO can take effect. In the present case the effect is that, unless the Secretary of State certifies that he is satisfied that an equal amount of suitable exchange land will be provided or that the land involved amounts to less than 250 square yards (209 sq. m), the instrument must be subject to special parliamentary procedure. At the close of the inquiry, the maximum area of open space land within the instrument was approximately 4,083 sq. m. Since the exceptions mentioned earlier in this paragraph do not apply, the instrument is subject to special parliamentary procedure.

7. Policy background

What is being done and why?

- 7.1 This instrument is concerned with a proposal of WMCA to construct, maintain and operate an extension to Line 1 of the Midland Metro Light Rapid Transit System (“the Midland Metro”) from a junction with the existing Line at Wednesbury to Brierley Hill via Dudley Town Centre with a terminus in Little Cottage Street in Brierley Hill (“the Project”). The extension will be around 11km (6.75 miles) long, with 17 new stops. It will run partly along the route of the former South Staffordshire Railway and partly on existing urban streets. The Midland Metro is a light-rail tram system serving the West Midlands conurbation.
- 7.2 The 2005 Order authorised WMCA’s predecessor body to construct, maintain and operate the Project and included powers to authorise the compulsory acquisition of land, and of rights over land, and the temporary use of land, in connection with the Project. The land acquisition powers were limited to a period of five years and expired in 2010.

- 7.3 While the “works” powers under the 2005 Order remain in force, WMCA needs to refresh the powers of compulsory acquisition provided by the 2005 Order to ensure it can secure all the land and rights over land that are required in order to implement the works. The instrument does not seek any powers of authorisation for the new tramway’s construction or operation.
- 7.4 In deciding the application for the instrument, the Secretary of State noted that the Project is needed on economic and social grounds and as a catalyst for regeneration. The Secretary of State also noted that the Project is supported by local planning policies, and by the locally approved economic and transport strategies for the area. It was also noted that central Government has recognised the need for the Project in the context of decisions made on the devolution arrangements for the West Midlands, maximising HS2 connectivity, and the associated commitments in respect of Government funding.
- 7.5 The Secretary of State agreed with the inquiry Inspector’s conclusion that the Project would provide modern, convenient, and sustainable transport links between Black Country towns, and between that area and the wider region, and found that the evidence as to the Project’s potential regeneration and socio-economic benefits to be substantial and convincing.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 None. The instrument renews the powers for compulsory land acquisition to secure the land and rights over land as those conferred by the 2005 Order.

10. Consultation outcome

- 10.1 As required by the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (“the Applications Rules”), there was consultation on the Project before WCMA’s application for the instrument was submitted. As further required by the Applications Rules, the application was accompanied by a report summarising the consultation undertaken (“the consultation report”). It can be found here:

<https://www.tfwm.org.uk/media/3126/wbhe-a5-consultation-report-final-as-submitted.pdf>

- 10.2 In addition to this statutory consultation, the consultation report describes the (non-statutory) stakeholder consultation and engagement and ongoing consultation undertaken by the Midland Metro Alliance (“MMA”). The MMA was formed in June 2016 and is the body that represents the WMCA in the development and implementation of Midland Metro.
- 10.3 There were 67 responses, including more than 50 from businesses, to the statutory consultation. The consultation report states that most concerns related to the acquisition of property or land, how respondents would be affected by works, and the type of compensation they would receive. The MMA held discussions with these businesses and residents and the consultation report states that the MMA will continue to engage with them. Stakeholders from Well Springs Gardens, Dudley, expressed concern about

the plans for the works in that specific area. In response, the MMA supplied additional information to these stakeholders. The consultation report states the MMA will continue to engage directly with stakeholders through the TWAO process and, if the instrument is made, during the subsequent implementation and delivery of the Project.

- 10.4 There was a further opportunity for interested parties to comment on the Project following the submission of the application, as prescribed by the Applications Rules. Within the statutory period for objections and representations, 23 objections were received from persons or bodies holding qualifying interests in the land which is subject to the instrument. In the same period, four representations of support were received. None of the objectors or other interested parties appeared or was represented at the inquiry into the instrument.

11. Guidance

- 11.1 Guidance is not required.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because it will not lead to costs or savings for business, public or third sector organisations regulators or consumers. It grants powers to WMCA to renew the same powers of compulsory land acquisition as those conferred by the 2005 Order.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 There is no systematic monitoring or review of a TWAO once it has been made.

15. Contact

- 15.1 Susan Anderson at the Department for Transport Telephone: 07971 143710 or email: susan.anderson@dft.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 David BATTERY, Co-Director for Road Safety, Standards and Services, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Andrew Stephenson MP at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.