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24 July 2013

Dear Sirs,

TRANSPORT AND WORKS ACT 1992 TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION FOR THE PROPOSED CROXLEY RAIL LINK 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 Andrew Pykett BSc (Hons) PhD MRTPI, who held a public local inquiry between 9 and 18 October 2012 into the application made by your clients, Hertfordshire County Council ("the Council") and London Underground Limited ("LUL"), for—

- (a) the Croxley Rail Link 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.

2. The Order, if made, would authorise the Council to construct and operate a rail link extending the LUL Metropolitan Line from Croxley to Watford Junction via the disused Croxley Green Branch and Watford High Street station. The Order would also authorise the Council to acquire and use land for the purposes of the Croxley Rail Link ("CRL") and to transfer the powers in the Order to LUL or Network Rail by agreement. The CRL scheme involves the closure of LUL's Watford Metropolitan Line station ("Watford Met"), but this would not be authorised by the Order.

3. Enclosed with this letter is a copy of the Inspector's report. His conclusions are set out in section 8 of the report, and his recommendations are at section 9.

Summary of Inspector's recommendations

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

Summary of 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, subject to the conditions set out in Annex 1 to this letter.**

Secretary of State's consideration

6. 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 paragraph references, unless otherwise stated, are to the Inspector's report ("IR").

Aims and objectives and need for the CRL

7. The Secretary of State notes that the Council's main objectives for the CRL scheme are to enhance sustainable links both within Watford and across Hertfordshire, including links with London, by reinforcing Watford's role as a key transport hub; to improve local connectivity; and to provide a sustainable and value-for-money alternative to car travel with inherently lower environmental impacts per trip (IR 8.2). He agrees with the Inspector for the reasons given at IR 8.3-7 that the CRL would fulfil these objectives. The Secretary of State agrees also with the Inspector that there is a need for a high volume public transport system in the area surrounding the proposed Watford Hospital station; that the CRL would facilitate travel for those local residents without cars, including into London; and that for those with cars, the CRL would provide an alternative to car travel with lower environmental impacts (IR 8.8). Like the Inspector, he considers that there is a compelling need for the CRL scheme in the public interest (IR 8.96).

Anticipated benefits of the CRL

8. The Secretary of State agrees with the Inspector that the CRL scheme has the potential to result in a modest benefit in terms of highway traffic flows in the area; and that the proposed Watford Hospital station would be likely to generate significant numbers of new passengers from a catchment area with high levels of deprivation and low levels of access to a car. Like the Inspector, he considers that in the absence of a car-park at the station it would be desirable to include a lay-by for set-down and pick-up, if that proved feasible. The Secretary of State agrees with the Inspector's assessment of the likely regeneration and socio-economic benefits of the CRL scheme, particularly in the area surrounding Watford Hospital station, by supporting the realisation of other investment projects. He notes further the predicted modest reduction traffic emissions through a modal shift from private cars to trains (IR 8.10-16).

Main alternative options considered

9. The Secretary of State notes that a number of alternative alignments and mode options have been considered in the context of the current proposal, as detailed at IR 8.18-21. He agrees with the Inspector that none of those referred to would offer a better alternative (primarily due to value for money considerations) than the CRL proposals.

Consistency with national, regional and local policies

10. The Secretary of State agrees with the Inspector that the aim of the CRL scheme to establish sustainable transport links is consistent with the presumption in the National Planning Policy Framework (“NPPF”) in favour of sustainable development. He notes also that the consistency of the scheme with the development plan and emerging core strategy was not disputed by objectors; and that the CRL receives specific support in the Mayor’s Transport Strategy (IR 8.22-25). However, the Secretary of State agrees with the Inspector that the substantial new viaduct at the western end of the CRL would constitute inappropriate development in the Green Belt and, in accordance with the NPPF, should not be approved except in very special circumstances (IR 8.25-28). This matter is considered further at paragraph 30 below.

Likely impacts of closing Watford Met station

11. The Secretary of State agrees with the Inspector that, taking into account the London TravelWatch (“LTW”) report, the closure of Watford Met station would result in hardship to some existing passengers, for example in terms of longer walking distances for pupils of Watford Boys Grammar School and for those who live nearest to the Met station. He considers that the possible measures to alleviate hardship identified by LTW are essentially matters for the consideration of the promoters rather than to be secured through the Order. He nevertheless notes that the split service proposed by LTW and some objectors as a means of avoiding closure of the Met station would have a serious adverse impact on the business case for the CRL, and could harm the efficiency of the Metropolitan Line as a whole. Like the Inspector, the Secretary of State has concluded that the extent and significance of the hardship from implementing the CRL scheme and closing Watford Met station would be quite limited (IR 8.29-35). He has, furthermore, noted that the Mayor of London has today given consent to the closure of Watford Met station, subject to a condition and measures directed at alleviating hardship that would result from the closure.

Likely impacts of the CRL scheme on residents, schools, businesses and the environment

12. The Secretary of State agrees with the Inspector’s assessment at IR 8.36-44 of the likely impacts of noise as a result of constructing and operating the CRL scheme. He is satisfied that subject to the mitigation measures referred to by the Inspector, including operational noise monitoring required under condition 15 in Annex 1 to this letter, the effects of the scheme in this respect would be acceptable. He agrees also with the Inspector that the risk of damage or complaint as a result of ground-borne vibration is insufficient to justify refusing the Order (IR 8.45). With regard to the human rights of those whose homes would be affected by noise and vibration, the Secretary of State agrees with the Inspector that the effects of the development, with mitigation, would not be disproportionate so as to amount to a breach of those rights (IR 8.46, 95)

13. The Secretary of State agrees with the Inspector that the scheme would be of little significance in relation to air quality; and that the scheme includes satisfactory measures to protect the water environment (IR 8.47-49).

14. Like the Inspector, the Secretary of State considers that the proposed viaduct would not be consistent with the encouragement in the NPPF for retaining and enhancing the landscapes and visual amenity of the Green Belt, and that its visual impact weighs against the scheme. As regards the loss of trees on the route of the former Croxley Green Branch, he is satisfied that subject to the replanting of native trees and shrubs, as required by conditions 4, 5 and 6 in Annex 1 to this letter, there would be no net loss of visual amenity (IR 8.50-53). He is satisfied also that condition 9 in Annex 1 to this letter would sufficiently safeguard archaeological interests (IR 8.54).

15. The Secretary of State notes that the CRL scheme would have a number of adverse impacts on land use and commercial property, particularly within the area of the proposed viaduct. He agrees with the Inspector's assessment of the extent of these impacts as set out at IR 8.55-66. Taking into account the mitigation measures proposed by the Council and the provisions of the statutory compensation code where the scheme would adversely affect the value of property interests, the Secretary of State considers that these impacts are acceptable and do not outweigh the benefits of the scheme.

16. With regard to the acquisition of public open space for the CRL scheme, the Secretary of State notes that during the inquiry the Council reached agreement with Three Rivers District Council to acquire by agreement part of the Watford Road Playground (plot 22) required permanently for the scheme (IR 8.68). The Council therefore withdrew its request for compulsory acquisition powers over plot 22 and the proposed exchange land (plot 131) at Lavrock Lane, Croxley. In addition, the Council informed the Secretary of State on 21 February 2013 that it had reached agreement with Watford Borough Council for the acquisition by agreement of part of Harwoods Recreation Ground (plots 73 and 74) and was withdrawing its request for compulsory acquisition over these areas of public open space land (see IR 8.69-70). The Secretary of State is accordingly satisfied that no exchange land certificate is necessary in relation to any public open space required for the CRL scheme and notes that the Order will not be subject to Special Parliamentary Procedure.

17. The Secretary of State agrees with the Inspector that the Order includes adequate safeguards to minimise the disruption which would inevitably be caused by the temporary closures of Baldwins Lane, Watford Road and the new Ascot Road (IR 8.72).

18. The Secretary of State notes that an objection remains outstanding from Eastern Power Networks plc and UK Power Networks Holdings Limited (IR 8.73). He considers, however, that the Order includes suitable protective provisions to safeguard the interests of electricity undertakers.

Mitigation measures proposed by the Council

19. The Secretary of State agrees with the Inspector that the Council's draft Code of Construction Practice provides a comprehensive range of controls over the way in which the scheme would be implemented, and considers that these are necessary to minimise the adverse impacts of the scheme. He agrees, therefore, that conditions 2 and 3 in Annex 1 to this letter should require the approval of the respective local planning authorities to the finalised Code before development commences (IR 8.74).

20. 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. He agrees with the Inspector that the environmental barriers referred to at IR 8.75 would mitigate the adverse impacts of noise at the locations referred to by the Inspector. More generally, the Secretary of State considers that the Code of Construction Practice and the conditions set out in Annex 1 to this letter would serve to mitigate the other adverse environmental impacts of the CRL scheme.

21. The Secretary of State agrees with the Inspector that it may not be possible to mitigate entirely the adverse visual impact of the proposed viaduct (IR 8.77). He agrees also that operational noise monitoring under condition 15 in Annex 1 to this letter should be carried out at the locations listed in IR 8.76 so as to identify whether any further mitigation measures are necessary in this respect.

Adequacy of the Environmental Statement

22. The Secretary of State agrees with the Inspector that the Environmental Statement ("ES") submitted with the Order application is adequate for the purposes of his decision on this application, and that the statutory procedural requirements have been complied with. He confirms that, in reaching his decision, he has complied with the requirements of paragraphs (a) to (c) of section 14(3A) of the TWA Rules relating to the consideration of the ES.

Conditions to be attached to deemed planning permission

23. The Secretary of State agrees with the Inspector that, subject to two qualifications explained below, all the conditions set out in Appendix F to the IR are necessary and appropriate and meet the tests of DOE Circular 11/95, for the reasons given by the Inspector at IR 8.79-83. The Secretary of State has made a number of minor drafting changes to the conditions, including the insertion of reasons and some changes in the interests of clarity.

24. The first qualification is that the Secretary of State does not agree with the Inspector that allowing for the Council to propose subsequent revisions to details approved by the local planning authority under the conditions would be inappropriate or circumvent any statutory process. He considers rather that such provisions, which were agreed by the local planning authorities, would permit an important degree of flexibility given the scale of the CRL project, and are unlikely to be used unreasonably by the Council. The Secretary of State has therefore decided to amend conditions 2, 3, 5, 6, 7, 8a, 9, 10, 12, 14, 15, 16 and 17 in Annex 1 to this letter to provide such flexibility.

25. The second qualification is that the Secretary of State has omitted the last sentence of condition 15 in Appendix F to the IR. This is because it is unnecessary to include in conditions a requirement to comply with other statutory duties.

Funding

26. The Secretary of State agrees with the Inspector, for the reasons given at IR 8.84, that the Council's proposed funding arrangements are secure and that there is unlikely to be an impediment to implementation of the scheme in this regard.

Compulsory acquisition matters

27. The Secretary of State agrees with the Inspector that, taking into account the considerable benefits which the CRL scheme would achieve in meeting the objectives described at paragraph 7 above, there is a compelling case in the public interest for authorising the compulsory acquisition and use of the land needed to implement the scheme. He agrees also that the land which would be subject to the Order is limited to that required for the scheme and that there is no likely impediment to implementation of the scheme (IR 8.85-88). The Secretary of State is accordingly satisfied that the tests in ODPM Circular 06/2004 are met.

Allotments Act 1925

28. The Secretary of State notes the Inspector's conclusions at IR 8.89 about the implications of the proposed compulsory acquisition of plot 73a on the availability of allotments. He is satisfied that, in the light of these conclusions, it is appropriate to include at article 16(2) of the Order provision to disapply section 8 of the Allotments Act 1925.

Overall conclusions and decision

29. The Secretary of State agrees with the Inspector that the Council's case for the CRL scheme is in most respects substantial and convincing. He agrees that substantial weight should be given to the aggregate harm resulting from the closure of Watford Met station and the proposed viaduct on the Green Belt, including the impacts on visual amenity. He has nevertheless concluded, like the Inspector, that these residual adverse impacts would be clearly outweighed by the benefits of the scheme (IR 8.93, 96).

30. The Secretary of State has considered the constraints in the NPPF on approving inappropriate development in the Green Belt. He is satisfied that the transportation, regeneration and environmental benefits of the CRL scheme summarised by the Inspector at IR 8.94 amount to very special circumstances such as to justify this development in the Green Belt.

31. For all the reasons given in this letter, the Secretary of State has decided to make the Order, with modifications, and to give the direction as to deemed planning permission subject to the conditions in Annex 1 to this letter.

32. In addition to the Order modifications referred to by the Inspector at IR 8.90-91, the Secretary of State has decided to make the following further modifications to the Order:

- in article 16(3), to remove the powers of compulsory acquisition over plots 73 and 74 (see paragraph 16 above);
- to delete plot 131 from the deposited plans (see paragraph 16 above); and
- a number of other minor drafting changes which do not materially alter the effect of the Order.

The Secretary of State is satisfied that none of modifications made to the Order since

application would make a substantial change in the proposals such as would require notification to affected persons under section 13(4) of the TWA.

33. The letter conveying the planning direction will issue shortly, at the same time as the Order is made, following publication of a notice of the determination in the London Gazette.

Notice under section 14 of the TWA

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

Challenge to decisions

35. 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

36. 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,

A handwritten signature in black ink, appearing to read 'M Woods', written in a cursive style.

Martin Woods

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

Interpretation

In the following conditions:–

"the Ascot Road bridge works" means any or all of the reconstruction of the bridge carrying the railway over old Ascot Road;

"the Cardiff Road bridge works" means the widening of the bridge carrying the railway over former Cardiff Road;

"Code of Construction Practice" means a code setting out:

(a) the general principles and requirements to be applied during construction for site operations; and

(b) details of how those principles and requirements are to be applied for each element of the development on a site-specific basis;

"development" means the works authorised by the Order;

"the deposited plans" has the same meaning as in Article 2 of the Order;

"the Environmental Statement" means the Environmental Statement submitted with the application for the Order;

"the local planning authority" means Watford Borough Council or Three Rivers District Council, as the case may be, in relation to development within the area of that authority;

"the Order" means the Croxley Rail Link Order 2013;

"the parapet works" means the parapet strengthening works to the bridges carrying Tolpits Lane, Vicarage Road and Wiggshall Road over the proposed railway;

"stage" means a defined section or part of the development the extent of which is set out in a scheme submitted to and approved in writing by the local planning authority pursuant to condition 14;

"the stations" means the proposed Ascot Road and Watford Hospital stations;

"the substation" means the substation to be constructed to the east of Tolpits Lane, adjacent to the proposed railway; and

"the viaduct" means the viaduct carrying the proposed railway over

Baldwins Lane, Watford Road, the Grand Union Canal, Beggars Bush Lane, the River Gade and connecting with the Ascot Road bridge works.

Time limits

1. The development shall commence no later than 5 years from the date that the Order comes into force.

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

Code of Construction Practice

2. No development shall commence until Part 1 of the Code of Construction Practice has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved Code or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

3. Before any development commences at a worksite, a Part 2 of the Code of Construction Practice specifically for that worksite shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details for that worksite or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To protect the amenity of neighbouring residents and the local area generally.

Landscaping Design

4. No development shall commence for any stage of the works until a written landscaping scheme for that stage has been submitted to and approved in writing by the local planning authority. The landscaping scheme shall include details of all proposed soft and hard landscaping works including the measures set out in paragraphs 6.6.2 to 6.6.8 of chapter 6 and TS1 of chapter 18 of the Environmental Statement (Volume 1) and in addition, where relevant:

- (a) the location, number, species, size and planting density of any proposed planting;
- (b) the cultivation, importing of materials and other operations to ensure plant establishment;
- (c) the proposed finished ground levels;
- (d) the hard surfacing materials;
- (e) the minor structures including street furniture, refuse or other storage units and signs;
- (f) the proposed and existing functional services above and below ground, including power and communications cables and pipelines, manholes and supports;

(g) the details of existing trees to be retained, with measures for their protection during the construction period; and

(h) implementation timetables for all landscaping works.

Reason: In the interests of visual amenity.

Landscaping Implementation and maintenance

5. The landscaping works for each stage shall be carried out in accordance with the scheme and implementation timetables approved for that stage under condition 4 or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

6. Any tree or shrub planted as part of any approved landscaping scheme that, within a period of 5 years after planting is removed, dies or becomes seriously damaged or diseased, shall be replaced in the first available planting season with a specimen of the same size and species as that originally planted, unless the local planning authority gives written consent to any variation.

Reason: To secure a visually satisfactory setting for the development and to ensure that planting is carried out in a timely manner and maintained thereafter.

Surface water drainage

7. No development shall commence for any stage until written details of the surface and foul water drainage system (including means of pollution control) for that stage have been submitted to and approved in writing by the local planning authority. The surface water drainage system must be constructed so as to limit the surface water run-off generated by the 1 in 100 year critical storm, plus 20% for climate change, to 5 litres per second per hectare so that it will not exceed the run-off from the site prior to development. The surface and foul water drainage systems must be constructed in accordance with the approved details or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To ensure the provision of adequate surface water and foul drainage facilities so as to reduce the risk of flooding and pollution.

Contaminated land and groundwater

8a. No development shall take place for any stage until a written scheme that includes the following components to deal with the risks associated with contamination of the land, including groundwater, for that stage has been submitted to and approved in writing by the local planning authority:

- 1) A preliminary risk assessment which has identified all previous uses and potential contaminants associated with those uses, a conceptual model of the land indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination of the land.
- 2) An investigation scheme, based on the results of the preliminary risk

assessment referred to in (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

- 3) The results of the investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) 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 referred to in (3) are complete, identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented as approved, or in accordance with any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

8b. No operation of the Croxley Rail Link shall take place until a report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation has been submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a plan (a 'long-term monitoring and maintenance plan') for extended monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority. The long-term monitoring and maintenance plan shall be implemented as approved.

8c. If, during development, contamination not previously identified is found to be present on any land, then no further development for that stage of the works (unless otherwise agreed in writing with the local planning authority), shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this contamination shall be managed. The remediation strategy shall be approved in writing by the local planning authority, and it shall be implemented as approved.

Reason: To ensure that any necessary site investigations and remedial action are undertaken in relation to contaminated land.

Archaeology

9. No development for the stations, viaduct, Ascot Road bridge works or substation shall commence in each case until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The development must be carried out in accordance with the approved scheme or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To ensure that archaeological artefacts and information are preserved.

Ecological management plan

10. No development shall commence for any stage until a written ecological management plan, reflecting the survey results and ecological mitigation and enhancement measures included in paragraphs 6.6.9 to 6.6.11 of chapter 6 and paragraphs EC1-5 of chapter 18 of the Environmental Statement (Volume 1) for that stage, has been submitted to and approved in writing by the local planning authority. The ecological management plan shall include an implementation timetable and must be carried out as approved or in accordance with any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To protect and enhance the ecological value of the area.

Highway access

11. No development shall commence for any stage until written details of the siting, design and layout of any new permanent or temporary means of access to a highway to be used by vehicular traffic for that stage, or any alteration to an existing means of access to a highway used by vehicular traffic for that stage, has been submitted to and approved in writing by the local planning authority. The highway accesses shall be constructed in accordance with the approved details or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To ensure appropriate access to and from the stations and railway.

Detailed design approval

12. No development for the stations, the viaduct, the Ascot Road bridge works, the Cardiff Road bridge works, the parapet works or the substation shall commence in each case until written details of the layout, scale and external appearance, including facing materials 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 or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To protect the amenities of adjacent properties and ensure satisfactory external appearance for the development.

Flood compensation

13. No operation of the development shall commence until flood storage compensation has been provided in the area identified as plot 87a on the plans accompanying the Order (or in such other location approved in writing by the local planning authority) to a written specification submitted to and approved in writing by the local planning authority. The written specification is to provide compensatory flood storage on a level for level and volume for volume basis of 500m³.

Reason: To limit any effects arising from flood risk.

Phasing

14. No development shall commence until a written scheme setting out all the stages of the development has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To establish the stages of the development.

Operational noise monitoring

15. The development shall not be brought into operational use until a written scheme of noise monitoring for the first 12 months of operational use as described in chapter 18 of the Environmental Statement (Volume 1) and based on the criteria set out in the *Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1996* has been submitted to and approved in writing by the local planning authority. The monitoring shall be carried out in accordance with the approved scheme or any subsequent revisions that have been submitted to and approved by the local planning authority.

Reason: To identify whether the eligibility requirements of the Noise Insulation Regulations are met.

Station Exterior details

16. No development shall commence for the stations until written details of vehicular and pedestrian accesses, parking and circulation areas where relevant for each station 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 or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

17. No development shall commence for the stations until written details for external lighting for each station 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 or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: To ensure provision is made for different travel modes, together with efficient parking and circulation areas, and to prevent light pollution.

Noise Barrier

18. Unless otherwise agreed in writing with the local planning authority, noise barriers or other mitigation measures shall be provided, and thereafter maintained, in the locations shown on Mouchel drawing no. 1044118-NB1, in a form designed to secure that in all reasonably foreseeable circumstances the increase in noise levels at the nearest existing residential dwelling resulting from the operation of trains on the railway authorised by the Order will be less than 5 dBL_{Aeq,T} calculated in accordance with the *Noise Insulation (Railways and Other Guided Transport Systems)*

Regulations 1996. The noise barriers or other mitigation measures shall be installed before the commencement of the operation of the services on the railway.

Reason: *To protect residential amenities.*

END

RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA

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

- it is not within the powers of the TWA, or
- any requirement imposed by or under the TWA 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 the Order. Any person who is aggrieved by the giving of the direction may, however, seek permission of the High Court to challenge the decision by judicial review.

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