

TRANSPORT AND WORKS ACT 1992: PROPOSED LUTON DUNSTABLE TRANSLINK ORDER

TOWN AND COUNTRY PLANNING ACT 1990: REQUEST FOR DEEMED PLANNING PERMISSION

TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 1992

STATEMENT OF MATTERS

This statement relates to the public inquiry to be held into the application by Luton Borough Council ("LBC") for:

- (i) the above proposed Order under the Transport and Works Act 1992 ("the draft Order"); and
- (ii) a direction as to deemed planning permission for the development for which provision is included in the draft Order.

This statement sets out pursuant to rule 7(8) of the above Rules the matters about which the Secretary of State for Transport particularly wishes to be informed for the purposes of his consideration of this application. They are as follows:

- 1. The aims and objectives of the proposed Luton Dunstable Translink scheme.**
- 2. The justification for the particular proposals in the draft Order, including:**
 - the extent to which they are consistent with national, regional and local planning and transport policies;
 - the anticipated transportation and socio-economic benefits of the scheme;
 - the main alternatives considered by LBC for achieving the objectives of the scheme, and the reasons for selecting their preferred mode of transport;
 - the reasons for selecting the proposed route and the locations of the proposed bus stops and construction compounds.
- 3. Whether there is a compelling case in the public interest for conferring on LBC powers compulsorily to acquire and use land for the purposes of the scheme, having regard to the guidance on the making of compulsory purchase orders in ODPM Circular 02/2003, paragraphs 13 to 20 (or any replacement or revision of that guidance), and whether all of the land over which LBC has applied for such powers is required in order to secure implementation of the scheme.**
- 4. The likely impact on traffic of implementing the proposals in the draft Order, including:**
 - the effects on highway capacity, traffic flow, pedestrian movement and road safety, particularly where the busway joins or crosses existing streets, paths or other rights of way;

- the effects of altering the layout or the stopping up of the streets detailed in Schedules 3, 4 and 5 to the draft Order; and
 - the effects of the proposed bus lanes and prohibitions on access specified in Schedule 9 to the draft Order.
5. The likely impact on local residents, businesses and the environment of constructing and operating the Translink scheme, including:
- the effects of the scheme on access to properties, on parking facilities and on the ability of business and commercial operations to continue effectively and safely;
 - the effects of noise and vibration;
 - the effects of the scheme on air quality, water resources and contaminated land;
 - the landscape and visual impacts of the scheme;
 - the effects of the scheme on flora and fauna, including effects on the Luton-Dunstable Disused Railway County Wildlife Site and the likely impact on protected species and habitats having regard to the results of any surveys undertaken before or since the application was made;
 - the impacts of the scheme on the Blow's Down Site of Special Scientific Interest and on the Green Belt having regard to Planning Policy Guidance 2 on Green Belts;
 - the loss public open space and the suitability of the proposed replacement land; and
 - the effects of the scheme on cultural heritage.
6. The measures proposed by LBC for mitigating any adverse impacts of the scheme, including:
- the proposed Code of Construction practice;
 - the measures proposed to alleviate the effects of the scheme on residents and businesses;
 - the measures proposed to avoid, reduce or remedy any major adverse environmental impacts of the scheme;
 - the measures proposed to avoid, reduce or remedy any other significant adverse environmental impacts of the scheme
 - whether there is, or is likely to be, a need for a licence to be obtained under the Conservation (Natural Habitats, &c.) Regulations 1994 for works which would damage or destroy a breeding site or resting place of bats or other European protected species and the arrangements for obtaining any such licences;
 - whether, and if so to what extent, any adverse environmental impacts would still remain after the proposed mitigation measures had been put in place.

7. The conditions proposed to be applied to deemed planning permission for the scheme, if given, and in particular whether those conditions meet the tests in DOE Circular 11/95 of being necessary, relevant, enforceable, precise and reasonable.
8. The adequacy of the environmental statement submitted with the application for the draft Order and whether the statutory procedural requirements have been complied with.
9. LBC's proposed arrangements for protecting the interests of statutory undertakers and whether they are sufficient to enable those undertakings to be carried on effectively, safely and in compliance with any statutory and contractual obligations.
10. Whether the proposals are reasonably capable of attracting the necessary funding.
11. With regard to the powers sought by LBC to make byelaws to regulate the use and operation of the Translink system (article 42 in the draft Order), the justification for conferring on the LBC the power to arrest and detain persons committing an offence under those byelaws.
12. In connection with the powers sought by LBC to transfer the Translink system (article 44 in the draft Order), the justification for disapplying section 123 of the Local Government Act 1972 which imposes restrictions on the power of local authorities to dispose of land held by them.
13. Whether LBC has proposed any substantive changes to the draft Order since the application was made; if so, whether anyone likely to be affected by such changes has been notified; and whether any proposed changes to the draft Order would amount to a substantial change in the proposals for the purposes of section 13(4) of the TWA.

Note

It should be noted that whilst the above matters appear to the Secretary of State, from the evidence so far available to him, to be the principal ones that need to be addressed, this statement does not preclude the inquiry Inspector from hearing evidence on any other matters that he may consider to be relevant to consideration of the application, including the provisions of the draft Order. In addition, this statement does not pre-determine the order in which issues are to be addressed at the inquiry, nor does it imply any particular order of importance.

TWA Orders Unit
Department for Transport

5 October 2004