

22 September 2020

Bart Bartkowiak  
Case Manager, National Infrastructure Planning  
The Planning Inspectorate  
Temple Quay House  
Temple Quay  
Bristol  
BS1 6PN

**By email only**

**Womble Bond Dickinson (UK) LLP**

3 Temple Quay  
Temple Back East  
Bristol  
BS1 6DZ

Tel: 0345 415 0000  
Fax: 0345 415 6900  
DX: 200561 Bristol Temple Meads

richard.guyatt@wbd-uk.com  
Direct: +44 (0)117 989 6877

Our ref:  
KJG1/RG1/381278.1  
Your ref:

Dear Mr Bartkowiak

**North Somerset Council**  
**Development Consent Order application for Portishead Branch Line – MetroWest Phase 1**  
**Application Ref: TR040011**

**Applicant's Response to Section 51 Advice dated 12 December 2019**

Following our response to the Rule 6 letter, which we provided on 21 September, we now provide our client's response to s51 advice.

As a result of the s51 advice a number of additional documents are provided to assist the examination.

**Documents enclosed**

With this letter we provide:

1. Our client's formal response to the s51 advice.
2. Revised draft Development Consent Order (Version 2), comprising:
  - (a) revised clean draft Development Consent Order – PDF format;
  - (b) tracked changes draft showing the changes from the draft submitted with the application – PDF format; and
  - (c) revised clean draft Development Consent Order – Word format.
3. Revised draft Statement of Reasons (Version 2) comprising:
  - (a) revised clean draft Statement of Reasons – PDF format;
  - (b) tracked changes draft showing the changes from the draft submitted with the application – PDF format; and
  - (c) clean draft Statement of Reasons – Word format.

Womble Bond Dickinson (UK) LLP is a limited liability partnership registered in England and Wales under number OC317661. VAT registration number is GB123393627. Registered office: 4 More London Riverside, London, SE1 2AU, where a list of members' names is open to inspection. We use the term partner to refer to a member of the LLP, or an employee or consultant who is of equivalent standing. Womble Bond Dickinson (UK) LLP is authorised and regulated by the Solicitors Regulation Authority. Womble Bond Dickinson (UK) LLP is a member of Womble Bond Dickinson (International) Limited, which consists of independent and autonomous law firms providing services in the US, the UK, and elsewhere around the world. Each Womble Bond Dickinson entity is a separate legal entity and is not responsible for the acts or omissions of, nor can bind or obligate, another Womble Bond Dickinson entity. Womble Bond Dickinson (International) Limited does not practise law. Please see [www.womblebonddickinson.com/legal](http://www.womblebonddickinson.com/legal) notices for further details.

4. Revised Works Plan.
5. Revised Land Plan.
6. Revised Guide to the Application (previously referred to in our application as a navigation document).
7. Schedule of Changes to the draft Development Consent Order (Version 1).

#### **A. Revised draft Development Consent Order (dDCO) (DCO Document Reference 3.1 – Version 2)**

A.1 Only minor changes have been made to the revised dDCO.

A.2 These reflect the s51 advice suggesting further checking be carried out. In addition to typographical errors some more changes are proposed, which have no impact on the substance of the dDCO.

A.3 The typographical changes can be seen in the tracked changes version of the dDCO.

A.4 The other changes are explained in the attached document detailing our responses to the s51 advice and in the Schedule of Changes to the draft Development Consent Order (Version 1). They include the following:

- (i) The description of Work 1C has been amended in Schedule 1 of the dDCO to better reflect the drafting of the other railway works.
- (ii) We have been alerted to a typographical error in the dDCO at Requirement 10 dealing with archaeological works. This was pointed out to us by the local planning authority and the local planning authority has also requested we change the wording of that Requirement. This will be confirmed in the relevant Statement of Common Ground but we have taken this opportunity to update the draft DCO accordingly.
- (iii) We have agreed with Freightliner Limited to alter the description of the nature of powers sought over plots 17/10 and 17/15 of the Order land, as described in Schedule 12 of the dDCO.

#### **B. Revised Statement of Reasons (DCO Document Reference 4.1 – Version 2)**

B.1 The s51 advice alerted the Applicant to a number of typographical errors and incorrect cross-referencing in the Statement of Reasons. We have taken the opportunity to tidy up the Statement of Reasons accordingly.

B.2 The opportunity has also been taken to revise the Statement of Reasons to make it clear that there is a degree of flexibility in the delivery of the MetroWest Phase 1 project and that options are still being investigated in respect of procurement of the construction works. Network Rail's involvement as a key participant in the project remains, as the national network operator of railway and as one of the two principal landowners. However the revised Statement of Reasons as revisited no longer states that Network Rail will carry out a number of activities, as it may be that the relevant activity is carried out by a person directly procured by the Applicant and/or the West of England Combined Authority.

B.3 The submission draft Statement of Reasons contains a description of the status of negotiations with holders of Order lands, at November 2019, in Schedule 2. As the Examining Authority (ExA) has requested a regular update of the status of negotiations, we will henceforth provide this as a stand alone document. Schedule 2 of the Statement of Reasons has not been updated therefore.

#### **C. Revised Works Plans (DCO Document Reference 2.3 – Version 2)**

The s51 advice asked the Applicant to reflect on the nomenclature in the Works Plan. The nomenclature has been updated to reflect the s51 advice and more closely reflects the works descriptions in Schedule 1 to the dDCO.

#### **D. Land Plan (DCO Document Reference 2.2 – Version 2)**

D.1 The Land Plan contained an incorrectly coloured plot – 01/205. This plot is held by North Somerset Council as freehold owner in any event. The plot has now been altered from being shown as a permanent new right to a permanent freehold acquisition. No notifications to the relevant parties has been sent at this time on the basis that the Applicant is already the freehold owner of the relevant land.

D.2 In addition, insets have been added to the Land Plans to deal with the s51 advice that some plots were difficult to discern.

#### **E. Response to s51 advice regarding Category 3 parties in the Book of Reference**

The enclosed response to the s51 advice explains that:

(a) the Applicant's Agents used professional judgement, supported by the emerging environmental statement chapters, to advise the Applicant as to whom it might be thought could have a relevant claim, and prepared the Book of Reference accordingly; and

(b) in the period between formal consultation and submission of the Order the Applicant's agents continued to re-reference the Order Lands to maintain an up to date Book of Reference.

#### **Concluding remarks and suggestion for formal direction for submission of updated documentation**

We believe that this letter and its enclosures deals with all of the points arising from the s51 advice of 12 December 2019. Should the ExA have any further questions regarding s51 advice then we suggest these are discussed at the preliminary meeting.

In addition the Applicant is in the course of finalising a number of Environmental Statement-related documents and detailed updates of submitted plans, being updated as a result of progress made in discussions with interested parties since the Applicant's documents were submitted in November 2019.

We appreciate that the ExA may wish the revised draft documentation to be submitted on a more formal basis and again we can discuss this with the ExA at the preliminary meeting. If a more formal submission is required then we would suggest that Deadline 1 be used for this process or an additional early deadline be set at the preliminary meeting (perhaps 19 October?).

Yours faithfully

A handwritten signature in black ink that reads "Womble Bond Dickinson (UK) LLP". The script is cursive and fluid, with the letters connected in a continuous line.

**Womble Bond Dickinson (UK) LLP**