



S O L I C I T O R S

16 May 2019

**THE WEST MIDLANDS RAIL FREIGHT INTERCHANGE ORDER**

**SUPPLEMENTAL REPRESENTATIONS IN RESPONSE TO THE APPLICANT'S RESPONSES  
TO OTHER PARTIES' DEADLINE 2 SUBMISSIONS (Document 11.1)**

**FOR**

**THE INGLEWOOD INVESTMENT COMPANY LIMITED**

**REFERENCE 20015438**

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Comments on behalf of The Inglewood Investment Company Limited in response to Appendix 4  
(Response to WR on behalf of Inglewood Investment Company Limited) to the Applicant's  
Responses to Other Parties' Deadline 2 Submissions (Document 11.1)

By reference to the paragraph numbering contained within Appendix 4 to the Applicant's Document 11.1:

**2. Ownership and rights**

**2.1-3.** We note the points made as to clarification of the freehold and mineral ownership position, and that the Book of Reference will be appropriately updated.

**3. Timing**

**3.3.** The suggestion that the Inglewood land might be developed 'early' is completely at odds with the Applicant's evidence and with the EIA approach. However, in putting their case in this way, the Applicant is suggesting now that the Inglewood land is not needed for the delivery of the scheme infrastructure.

**3.4.** The suggestion that the Inglewood land 'could make an important contribution to kick starting the development and funding early infrastructure' is also at odds with the way in which the funding arguments have been put, to date, by the Applicants. But the word 'could' is an indication in its own right that there is no compelling need for acquisition. The Applicants are shifting their ground because they have failed to make any case as to compelling need on the basis of viability. Their case to date has been that the order of construction would be as per the phases identified, a natural progression from the SRFI core; the phasing question was as to timing in that progression not as to the order of construction works.

**4. Viability**

**4.3.** The Owen appraisal remains the only evidence on viability before the ExA. This is a choice made by the Applicants. The absence of such submissions from the Applicant represents a failure to properly demonstrate that the acquisition of the Inglewood land is essential for the creation of a viable interchange.

**4.5.** (1) Bearing that in mind, the NPPG guidance as to viability is primarily directed towards planning development control decision making, in housing contexts. The core point however is that the assessment is for the Applicant to make, and should be proportionate simple transparent and publicly available [NPPG Reference ID 10-

010-20180724]. Housing development is generally speculative. This is no doubt why the NPPG also shows that 'For commercial development broad assessment of value in line with industry practice may be necessary' [NPPG Reference ID: 10-011-20180724]. This illustrates the sense of the approach taken by Mr Owen who has set out his view on industry practice.

- (2) We suspect that the paragraph being relied on by the Applicants is NPPG reference ID: 10-018-20180724, which indicates a figure of 15-20% return on development value; but this is for plan making purposes: as the NPPG notes, alternative figures may be appropriate, and one circumstance is given as an example, that of affordable housing 'in circumstances where this guarantees an end sale at a known value and reduces risk'. As Mr Owen argued in his evidence, the warehousing elements of this project are not being brought forward on a speculative basis, and there is therefore a reduced risk, so that the industry practice he illustrates is an appropriate circumstance in which to set a lower expectation.
- (3) The basis of the Savills review (Annex 1 to the Applicants' Document 11.1) appears to be that units will be built on a mixed basis of pre-let and speculative development (Savills para 1.2.3 (3)). The absence of any reference to development also being 'pre-funded' is, in Mr Owen's opinion, unrealistic. The proposed units are of size, and therefore investment value, that to proceed to develop a unit without involvement of an eventual institutional purchaser is unrealistic. His appraisal assumptions reflect this approach (to include some £30.8m of institutional purchasers agents and legal costs), whereas Savills' review does not. The previously stated case for the Applicants<sup>1</sup> was that the development would be market led, that is, the delivery and timing of the development would be dictated by the market rather than being speculatively provided, so that there would be no need for the developer to incur speculative risks.
- (4) Savills assume a planning 'risk'; there is no risk in relation to delivery, in that all delivery issues presuppose that the DCO has been granted, removing that risk element. If the DCO is not granted, then there is no development at all.

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<sup>1</sup> For example, para 4.83 of Chapter 1, Vol. 1, Doc 6.2 (Environmental Statement Main Report) which describes the phasing as being structured so as to serve the delivery of the principal warehouse buildings which would respond to market demand.

## **6. Comprehensive development**

- 6.1-2.** The SRFI is a facility, and once it is delivered there is no need for additional warehousing space to be subject to the same management regime. What is said sits at odds with the basis of the SRFI being developed so as to be a benefit to the community as shown in paragraph 2.6 of the Networks NPS. Once the infrastructure is in place it should be for the logistics industry to deliver choice, and the integration of the project does not need to descend to management aspects – the planning control of the DCO is all that is required in the interests of society. The suggestion that ‘the development must be integrated to generate the value necessary to deliver the development as a whole’ cannot be supported in the absence of a viability appraisal, and Mr Owen’s appraisal has shown it is not necessary.
- 6.5.** The Inglewood submission as to the Calf Heath Community Park South is that the Applicant has not explained its status and does not describe it as a vital component, nor has it set out the reasoning for its proposed extent. The Applicant’s response does not expand on these factors, it does not set out the compelling need, nor does it provide any justification for the extent of the Inglewood land required beyond the Community Park (assuming the location and extent of the Park is indeed justified).
- 6.6.** It is not accepted that a separate access into the Inglewood land is unlikely. It is unclear why the Applicant considers that the development that would come forward on the Inglewood land, if so separately accessed, would be unrelated to the rail freight interchange; Inglewood accept the principle of the SRFI application and submit that the market will drive the later phases, such that the Inglewood land will complement the scheme in due course, but is not essential for the principal infrastructure elements of the scheme to come forward; the primary submission remains that the case for a compelling need for acquisition of the Inglewood land is not made out.

**FBC MANBY BOWDLER LLP**  
**For The Inglewood Investment Company Limited**