

**THE INSPECTOR'S NOTES OF THE PRE INQUIRY MEETING**

**HELD ON**

**MONDAY 6 JANUARY 2003**

**AT THE**

**JARROW COMMUNITY CENTRE**

## **Introduction**

1. Mr J Stuart Nixon introduced himself as the Inspector appointed by the First Secretary of State to conduct the pre-inquiry meeting (PIM) and the inquiry into the application for the proposed River Tyne (Tunnels Order) under the Transport and Works Act 1992 and applied for by the Tyne and Wear Passenger Transport Authority (TWPTA). The Inspector would conduct the inquiry into the Order and other applications and prepare a report with his recommendation for the First Secretary of State.
2. The purpose of the PIM and these minutes is to identify the material considerations and to explain the procedural and administrative matters relating to the inquiry. As far as possible, the intention is to establish a programme for submitting proofs of evidence and hearing the cases at the inquiry. In other words, the intention is to pave the way for the smooth and efficient running of the inquiry.
3. Copies of these notes have been sent to all parties who have written in objecting to or supporting the proposed Order as well as those attending the PIM.

## **Background**

4. On the 20 September 2002 objectors/supporters to/of the proposed Order were invited to submit a Statement of Case reserving their right under Section 7(4) and 12(1) of the Transport and Works (Inquiries Procedure) Rules 1992 to appear at the inquiry. A significant number of interested persons and parties have submitted a Statement of Case and objectors wishing to appear at the inquiry have until Tuesday 18 February 2003 to inform the Programme Officer. The Programme Officer for the inquiry is Ian Stearman and details of where he can be contacted are to be found on the covering letter to these minutes.
5. A website has been established for the Order where access to inquiry information can be found. This will include the Statement of Matters identified by the First Secretary as topics he particularly wishes to be informed about for the purposes of his consideration of the applications. The Environmental Statement and accompanying documents are also included on the website as is a complete list of objectors/supporters to/of the scheme. Additional items will be placed on the site as these become available.
6. On the 31 May 2002, pursuant to the Transport and Works Act 1992 the TWPTA made an application to the First Secretary of State for the River Tyne (Tunnels) Order. The application is for statutory authority pursuant to Section 3 of the 1992 Act to construct the New Tyne crossing, being works that interfere with rights of navigation in waters within England and that are of a type listed in the Transport and Works (Description of Works Interfering with Navigation) Order 1992 and, otherwise, the authorised works. Compulsory acquisition of land and rights in land as well as extinguishment of rights in land and over water would be authorised by the Order.
7. The application was accompanied by an application under Section 90 (2A) of the Town and Country Planning Act 1990 for a direction by the Secretary of State that deemed planning permission should be granted. With the application an Environmental Statement was submitted.

8. Four applications have also been made under the Planning (Listed Buildings and Conservation Areas) Act 1990 relating to:-
  - Works in the curtilage of the existing Tyne pedestrian and cycle tunnels in north and south Tyneside (2 applications, 1 each to North Tyneside Council and South Tyneside Metropolitan council:
  - Demolition of the Gaslight public house, Tyne Street, Jarrow:
  - Removal of the statue of Charles Palmer situated in Riverside Park, Jarrow.
9. As promoters of the Order, the TWPTA will be represented by Council, (Mr Stephen Sauvain QC assisted by Mr Christopher Boyle of Council) instructed by Herbert Smith, Solicitors of Exchange House, Primrose Street, London, EC2A 2HS. Upto 12 witnesses would be called in support of the proposals and Order. It is estimated that 2-weeks would be required to present the necessary evidence in support of the Order.

### **Other Parties**

10. A large number of persons and parties have submitted Statements of Case and/or indicated that they may wish to present oral evidence at the inquiry. At this stage, discussions are being undertaken by the TWPTA with some 20 statutory and other objectors. As a consequence, at this juncture it is difficult to identify all those who will wish to appear at the inquiry. Under these circumstances, it has been assumed that those attending the PIM with outstanding objections will appear and the programme has been drafted accordingly. In the likely event that some of these objections will be satisfactorily treated updates of the programme will be available on the website to ensure that everyone is aware of changes.
11. All parties were invited by the Inspector to inform the Programme Officer if there were any dates within the 8-week period commencing the 4 March 2003, during which they would be unavailable. In the event objections are withdrawn the relevant parties were requested to communicate this by letter/fax/e-mail to the Programme Officer at the earliest opportunity.

### **Inquiry Venue**

12. The inquiry will be held in the Jarrow Community Centre off Staple Road, Jarrow.

### **Inquiry Dates**

13. The inquiry is scheduled to open at 10.00 hours on Tuesday, 4 March 2003. Accommodation in the Community Centre has been booked for 6-weeks.
14. The possibility of roundtable sessions and/ or evening meetings was discussed and it was agreed that if there were demand for this then accommodation would be found on one or more evenings. During these sessions, it was accepted that the questions put to local residents voicing concerns would be confined to matters of fact.

### **Programme**

15. A draft programme is attached to these PIM minutes. Essentially, the first three weeks would be taken up by the presentation of the case for the Tyne and Wear PTA and the supporting submissions of North Tyneside Council and South Tyneside Metropolitan

Borough Council and any others. The programme has made guestimates of time based on the information supplied at the PIM and in other documentation. Mr Nixon announced that the inquiry would not sit during the week 31 March – 4 April 2003.

### **Inquiry Procedure**

16. The inquiry will follow the Transport and Works (Inquiries Procedure) Rules 1992, having regard, where necessary, to the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000.
17. In accordance with these provisions, the Inspector will invite the applicants to make a brief opening statement of about an hour. After this, the PTA will offer its witnesses who can be questioned by objectors and the Inspector as appropriate. Following this, the two Councils and others supporting the proposals at the inquiry will follow a similar procedure, but will then be requested to sum up their cases. As far as possible, the closing submissions should be in writing and reflect the case each parties would wish the First Secretary to take into account in reaching his decision.
18. Following the proposers and supporters of the Orders, statutory and other objectors will be invited to present their cases on a similar basis, and questions may be put by the PTA and the supporting Councils as well as the Inspector. After all the objectors have been heard, the PTA will be invited to close and once again the Inspector requests this closing to be in writing and to reflect a summary of the case they would wish to present to the First Secretary. It is likely that the accompanied site inspection would take place before the PTA's closing submissions to help in their preparation.
19. A detailed look at the programme will take place on the first day of the inquiry when all details of objectors/supporters and all the evidence is available. Updated details of the programme will be published on the website and a copy posted outside the inquiry venue. To aid in this final assessment, advocates are asked to consider in advance estimates for presentation of their evidence and for questions to opposing witnesses etc.
20. Advocates are reminded of the recently accepted convention that they should stand when addressing the Inspector, but should remain seated during the presentation of evidence in chief and when questioning or re-examining witnesses.
21. The inquiry will open at 10.00 hours on the 4 March 2003 and adjourn each day for about an hour at lunch at approximately 13.00 hours. A convenient time to break for the day will be sought at around 16.45 – 17.00 hours. Mr Nixon will seek short morning and afternoon comfort breaks.
22. The Programme Officer and the Inspector will look at the layout of the Community Centre Hall to ensure that all interested persons and parties can hear and follow the proceedings.

### **Organisation of Material**

23. A considerable number of Statements of Case have been submitted already, including the applicant's Statement. The proofs of evidence and written submissions of all parties should be lodged with the Programme Officer on or before the 11 February 2003. Any rebuttal evidence must be submitted a minimum of 7-days before the evidence is to be presented and no further formal of rebuttal evidence would be accepted, other than in extenuating

circumstances. Core documents and other documents should also be submitted by the 11 February 2003. Copies of documentation will be placed on deposit both north and south of The Tyne in the Newcastle's Civic Centre to the North and in the offices of South Tyneside Council to the South. Specific details of locations can be gained from the Programme Officer and from the web site.

24. **The Inspector requested the TWPTA to ensure that all the outstanding objections from each of the objectors or objector groups are addressed in the evidence in an understandable format. Mr Sauvain said that this would be done as part of the appendices to the proofs of the relevant witnesses. Mr Nixon asked that these be identifiable by reference to the objector number and contain a brief resume of the objection as understood by the respondent. It is likely, of course, that many objectors will have lodged objections under a number of different heads. Mr Nixon will ask the Programme Officer to organise this material in such a way that objectors can readily check that the PTA has understood each strand of their objection and see the PTA response to it.**

### **Material Considerations**

25. As noted previously, the First Secretary has listed those matters upon which he wishes to be informed for the purposes of his consideration of the applications. Details will be placed on the website, at the document deposit locations and extra hard copies can be obtained from the Programme Officer if necessary.
26. In addition to the items covered, Mr Nixon accepted that under the heading of the proposed arrangements for setting, reviewing and varying the tolls chargeable for use of the proposed new Tyne crossing and the existing road tunnel that this could embrace concerns about handing over to any concessionary.
27. It is also considered by some that the references to the impact on residents and people and traffic moving in the area during the construction period has not been considered in sufficient depth. Mr Nixon agreed to hear representations on these matters and has no doubt that the PTA would have regard to the circumstances during construction, not least as part of the Environmental Statement.
28. Finally, insofar as health risks during and after construction are concerned, these should largely be covered under the effect on the environment in terms of air quality, noise and Item number 10, the proposals for mitigating any adverse environmental effects. The Inspector noted that in the circumstances where additional licences/ permits would have to be applied for, such as the remediation of contaminated land, the Environment Agency are obliged to take into account health risks before issuing the necessary permit. Having said this, Mr Nixon accepted that he would be content to hear any objective evidence on health matters that residents and others might wish to advance.

### **Environmental Statement**

29. In the objections and Statements of Case, considerable doubt is raised about several sections of the Environmental Statement as submitted with the application. Mr Nixon raised two particular areas pertaining to the remediation of contaminated land and further ecological surveys that may be necessary. Mr Nixon pointed out the Environmental Statement could be judged inadequate if conditions had to be attached to any deemed planning permission that served to address a perceived deficiency in the Environmental

Statement. In the event the Environmental Statement was judged inadequate, the First Secretary would have no option other than to decline to confirm the Orders and grant deemed planning permission. Mr Sauvain for the PTA acknowledged that the EIA procedure rules for Transport and Work Act cases differed from those applicable to other planning casework, insofar as wider consultation is necessary in the event of that an Environmental Statement is amended or updated. Mr Sauvain confirmed that amendments may be made to the Environmental Statement and the necessary consultation and other procedures would be carried out. He assured the PIM, however, that the amendments would not be significant.

30. In order to ensure transparency over the procedures for advertising the Environmental Statement and in receiving and responding to the consultation responses, Mr Nixon asked for a chronology of the proceedings and copies of any necessary correspondence/ advertisement and consultation responses, along with details of mitigating action, to be prepared as an inquiry document and placed on deposit.

### **Numbering of documents**

31. The Inspector requests that all documents are clearly numbered in the top right hand corner of the front cover and that parties should adopt a consecutive number scheme. The numbers used by the PTA should be preceded by the identifying initials PTA and where a document is split each section should be numbered individually. For example:-
  - The main proof of evidence of the witness might be TWA1:
  - The associated volume of appendices might be TWA2:
  - The summary of proof of evidence might be TWA3:
  - The next document in this regime would be the proof of evidence of the next witness, which would be TWA4 and so on. Any additional documents should be numbered and follow the proofs of evidence.
32. The Inspector would be perfectly happy if the summary of a proof is incorporated within the main proof of evidence, so long as this does represent a summary of the witness's evidence and not merely the conclusions drawn. Summary proofs of evidence should be produced where the substantive evidence exceeds 1500 words.
33. The evidence and documents for objectors and supporters should use the objection or supporter number allocated to each individual group or person. Details of these can be obtained from the website. Thus, a proof of evidence for objector number 186 may be 186/0/1: The appendices 186/0/2 and the summary proof 186/0/3. That for the supporter number 37 may be 37/S/1: 37/S/2 etc.
34. Mr Nixon asks that all paragraphs in the proofs be numbered, as should be the pages. To make finding references easier the appendices should be divided by indexing tabs and the pages numbered consecutively through all the appendices. For information, in the submitted evidence the 24-hour clock should be adopted and metric measurements should be used throughout. It would help in reproduction if all documents were A4 size and plans, photographs etc capable of being folded to that size. Each party is asked to be responsible for maintaining an up to date list of its own documents and for keeping the Programme

Officer and other participants informed of changes to that list. The final version of each party's list should be handed to the Programme Officer at the close of the inquiry.

35. A Core Document list has been started by the TWA and this should include documents of common interest and relevance to the inquiry. The Inspector suggests that these should be numbered CD1, CD2, CD3 etc. These are likely to include Government publications; development plan documents; and other documents that are of general rather than specific interest. Objectors or supporters who consider that additional documents should be included on the Core Document list should notify the Programme Officer at the earliest opportunity. Copies of the Core Documents will be replaced on deposit with the evidence and will be transferred to the inquiry venue, where they will be available during inquiry hours for interested persons and parties. A copy of the Core Document list will be maintained on the website when available and a copy posted outside the inquiry venue.
36. As indicated above, all proofs and other documents are to be with the Programme Officer on or before the 11 February 2003. For the inquiry itself, parties are requested to provide some additional copies of summary proofs of evidence to ensure that interested persons and parties can follow proceedings.
37. Mr Sauvain indicated that the PTA expect to provide upwards of 20 copies of each proof of evidence and accompanying documentation. A copy of each would be placed at the two deposit locations, the Programme Officer would retain a copy and one copy would be forwarded to the Inspector. The remaining copies would be distributed to statutory objectors and technical objectors in the first instance. It is hoped that copies of the proofs of evidence will be maintained on the website so that the information can be used by any other interested objectors/supporters.

### **Submissions of Interested Persons and Parties**

38. As indicated previously, it was not possible at the PIM to identify all those who may wish to present oral evidence to the inquiry. The draft programme lists those who have voiced a wish to appear, but the final date for formal notification is Tuesday the 18 February 2003. Even then, the Inspector would not preclude oral representation by other interested persons and parties at the inquiry subject to arranging a space within the programme. Clearly, written comments can be added to objections and submissions in support until the 18 February 2003. Under the provisions of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000, except in circumstances where additional information has been provided by the applicant pursuant to Rule 17 of the Application and Objections Procedure Rules, no further objections or representations can be made following the expiry date for objections etc on 19 July 2002.

### **Site Visit**

39. Mr Nixon will visit the site and surroundings and view it from public vantage points before the opening of the inquiry. Any particular features or vantage points from which objectors/supporters wish the Inspector to view the application proposals should be communicated to the Programme Officer well in advance of the start of the inquiry.
40. Mr Nixon will undertake an accompanied site inspection, when those features discussed during the inquiry can be pointed out to him. Representatives from the interested persons and parties will be welcome at the site visit, but Mr Nixon emphasises that he will be unable to hear any further arguments or representations during the visit. The 'formal'

accompanied visit will take place after hearing supporters of and objectors to the Orders and will most likely be conducted prior to the delivery of closing submissions by the Passenger Transport Authority, enabling the advocate(s) some time to prepare.

### **Conditions/Agreements**

41. As part of the original submissions and in the event of the First Secretary is minded to confirm the Orders, the PTA in conjunction with the local planning authorities has prepared a set of draft conditions. Any update of these will be forwarded to the Programme Officer along with the other documentation. If there is to be a Section 106 agreement/obligation/undertaking then this should be available at the inquiry. Mr Nixon emphasises that in fostering discussions on such matters it is not an indication that he or the First Secretary of State has any prior view about the outcome of the Orders. It merely complies with the provisions of the Procedure Rules and prevents delay in the event the Orders are to be confirmed.

### **Housekeeping Matters**

42. The PIM was informed that photocopying, phone and fax facilities will be available throughout the inquiry. In addition, there will be a retiring room for the Inspector and the PTA. Provision will be made during the inquiry for documents to be locked overnight. Mr Nixon asks that on the morning of the inquiry opening, the emergency evacuation/ fire procedures are made clear to participants.

### **Close**

43. There being no other matters, the PIM closed with Mr Nixon's thanks for those contributing to the proceedings. The inquiry will open to hear the cases at 10.00 hours on Tuesday 4 March 2003.

**J Stuart Nixon**  
**PINS**  
11 January 2003

Copies to: All those invited to attend the PIM and those who attended and gave their addresses.  
Harold Stephens PINS5  
Wendy Burden PINS1  
Chart

## **DRAFT INQUIRY PROGRAMME**

### **4 – 7, 11 – 14 March 2003**

Case for Tyne and Wear Passenger Transport Authority

### **18 – 21 March 2003**

North Tyneside Council and South Tyneside Metropolitan Borough Council and any other supporters.

### **25 – 28 March 2003**

Northumbrian Water – 1 ½ days

The Environment Agency – 2 days

Stride Community Network – 1 hour

VA Kirkdair – ½ an hour

### **31 March – 4 April 2003**

Inquiry in adjournment

### **8 – 11 April 2003**

Rohm and Hass UK Limited – 1 hour

Port of Tyne Authority – 1 day

Shell UK – 1 ½ days

Amec – 1 day

### **15 – 16 April 2003**

Friends of the Earth – 1 day

CPRE – 1 hour

St Pauls Area Residence Association – 3 hours

Jarrow Area Forum – 2 hours

### **23 – 25 April 2003**

Residents of Jarrow – 3 hours (probably evening meeting)

Living Streets Pedestrian Association – 1 hour

CPRE Regional - 1 hour

North East Combined Activists – 1 hour

Tyne Crossing Alliance (sweeping up) – 1 – 2 hours

Cyclists and Public Transport Group – 1 hour

Tyne Bikes – 1 hour

Highways Agency – Unknown

Northeast Green Party – 1 hour

South Tyneside Friends of the Earth – 1 hour

Freight Transport Association – 1 hour

North East Pensioners Association – 1 hour

Embury Estate – 1 hour