

# Transport and Works Act Orders

## How can we streamline the approval process for new transport projects?

Helen Robinson - Managing Associate, Planning and Infrastructure



# Background to the Transport and Works Act 1992

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- Used to consent new railway / tramway / trolley vehicle / guided transport schemes in England and Wales (section 1 TWA 1992) that are not authorised as nationally significant rail schemes under the Planning Act 2008
- Applications are made to the SoS by the promoter of the scheme and may include broad powers to facilitate the scheme, such as compulsory purchase powers, the ability to make bylaws and alter existing transport systems
- While not a planning permission in itself, it is common for deemed planning permission to be applied for alongside the order
- Significant amount of application documents required
- Lengthy process from start to finish



# Orders under the Transport and Works Act 1992

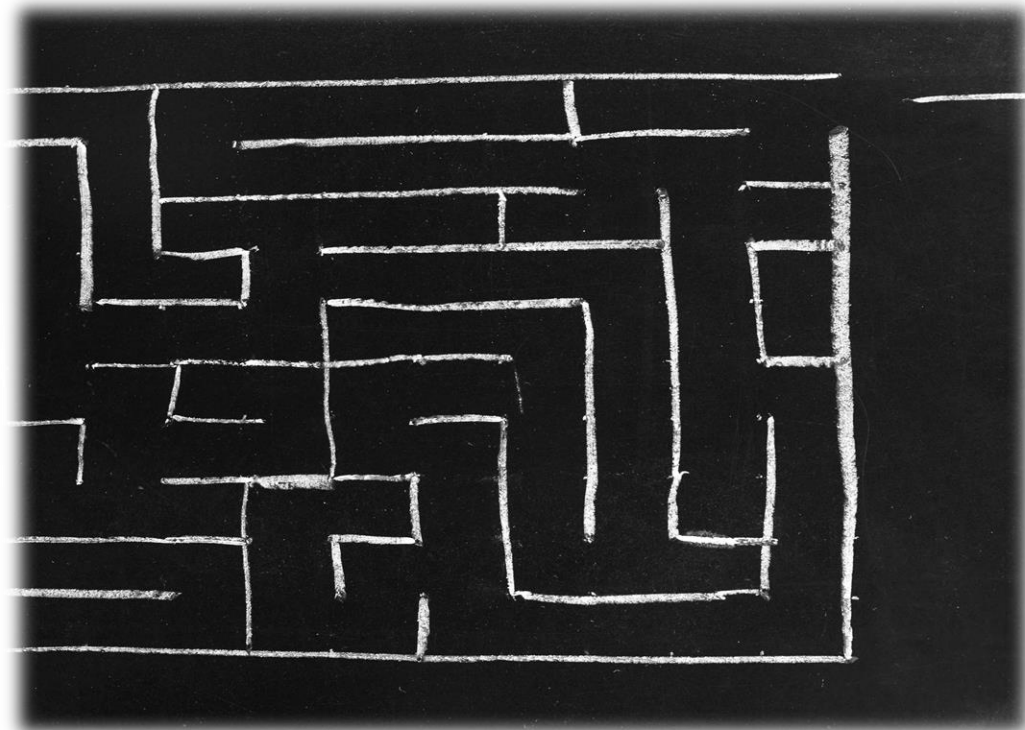
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- Clear need to improve the speed and certainty of consenting for transport infrastructure projects
- Inquiries are long, costly and often cause delay to the overall process and distract from objectives
- Aged process with out-dated guidance
- Lack of policy - contributes to delays and increases risk of challenges.



# Policy and the Transport and Works Act 1992

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- Similarities and differences to the DCO process
- DCO process - impose clearer time limits upon the SoS's for examination and decision-making
- Timescales more definitive (even though not perfect!)
- Development of a net-zero / decarbonisation policy that is linked into the TWAO process, and encourages net-zero – such as facilitating scheme and funding applications by stakeholders?
- Many transport schemes see the SoS set out very similar statements of matters to be considered at the Inquiry – enshrine a clear assessment criteria for such projects in a TWA policy, to increase certainty and help front-load the preparation process?

# Changes to Transport and Works (Guided Transport Modes) Order 1992?

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- Applications can be made for guided transport schemes in England and Wales
- **Guided Modes** – physical transport schemes (cables, kerbs or tracks)
- Modes beyond the current regulations are not well facilitated, with changes to the Order required to facilitate transport innovation having to be approved by both Houses of Parliament, slowing down the process further
- Government Consultation – acknowledged changes in technology enabled non-guided means
- Non-physical guidance eg sensors



# Changes to Transport and Works (Guided Transport Modes) Order 1992?

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- Amending section 2(2) TWA 1992 to remove requirement for parliamentary approval, perhaps for a direct application to the SoS?
- This would increase efficiency and reduce delay times, and facilitate types of future transport innovation that are not necessarily foreseen at this point in time



Change in TWA legislation required to expand application of TWA regime



Provide a consenting route of transport schemes using non-physical guidance



Support innovation - allow use of new and advanced technologies



# Government Consultation – move away from paper documents

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- Proposals to modernise Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 and
- Transport and Works (Inquiries Procedure) Rules 2004
- Enable electronic applications
- Aims to:
  - increase cost and time efficiencies;
  - improve accessibility; and
  - reduce environmental impacts from printing



Department  
for Transport



# Government Consultation – move away from paper documents

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- **Ran from 10 March 7 April 2023**
- **Government response received 7 July 2023**

## Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006

- **Change to Rule 10**
- **Change to Rule 14**
- **Rule 27**

## The Transport and Works (Inquiries Procedure) Rules 2004

- **Rule 2**
- **Rule 27**
- **Rule 24**





# Government Consultation – move away from paper documents

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- Electronic transmission quicker for those affected by proposals
- Updated more quickly
- Applicant currently required to provide paper copies of full set of application documents
- Provided to IP whether intending to participate or not
- not reflective of modern working practices



# Government Consultation – move away from paper documents

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## GOVERNMENT CONCLUSIONS

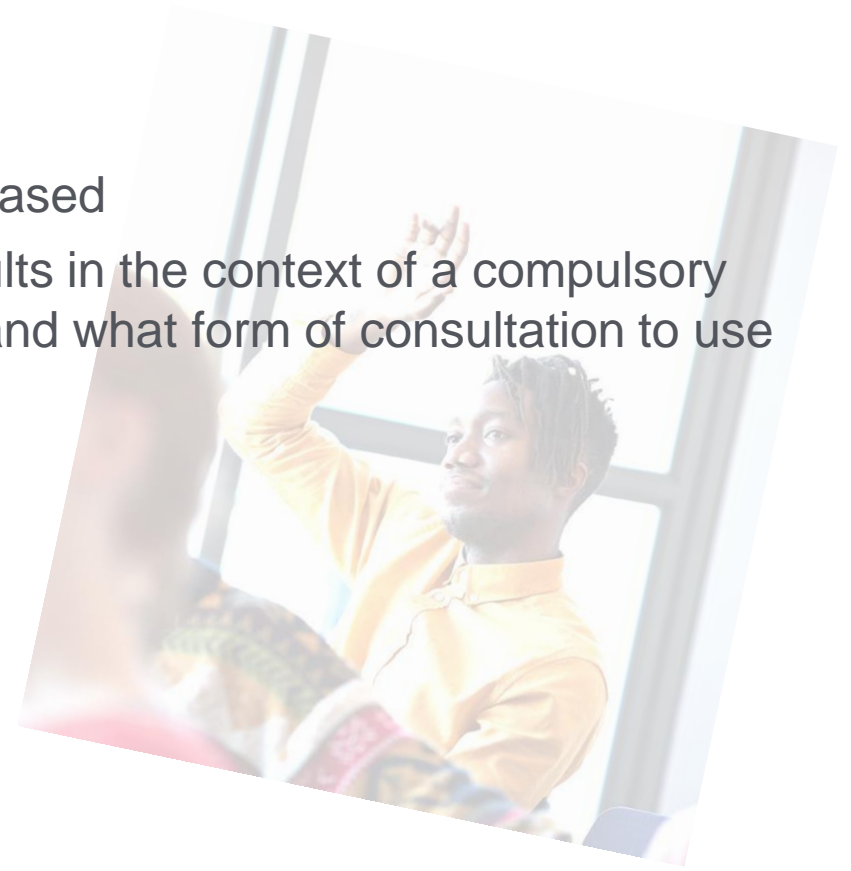
- Positive support from respondents to the consultation.
- The legislative change proposed received wide support.
- Intention to proceed with proposed change
- Proposed order is subject to the negative resolution procedure
- Draft to be laid before both Houses of Parliament
- If no debate required it will come into force 28 calendar days after being laid.
- Once the order is in force it will allow applications for orders under the Transport and Works Act 1992 to be submitted and progress by electronic means, instead of using paper documents.



# Consultation

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- TWA guidance is minimal and unclear
- Legal requirements complex
- Common area upon which extensive legal challenges are based
- Guidance is clear on certain aspects, such as who to consult in the context of a compulsory acquisition; but is less clear on aspects such as how, who and what form of consultation to use
- What if changes made to applications pre-submission?
- Vast differences to DCO guidance on consultation
- Clearer in terms of:
  - time periods;
  - how to consult; and
  - stages of consultation



# Deadlines

- The age of the legislation, guidance and rules is apparent in the less prescriptive process that must be followed under the TWAO
- A comparison to the DCO process shows some of the issues that could be addressed by setting clearer deadlines by stage, especially at decision stage
- Clearer stages that can be streamlined



