

APPLICATION BY HIGHWAYS ENGLAND FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A63 CASTLE STREET IMPROVEMENT SCHEME ("THE DCO")

NOTE TO THE INSPECTOR ON BEHALF OF PRINCES QUAY RETAIL LIMITED IN RESPONSE TO THE INSPECTOR'S REQUEST MADE AT THE PRELIMINARY MEETING AND OPEN HEARING ON THE 26 MARCH 2019

1. At the preliminary meeting in respect of the DCO on the 26 March I made submissions on behalf of Princes Quay Retail Limited regarding the unlawfulness of including alternative sites in the DCO (specifically for the proposed compound, the preferred Site A and the alternative Site B). In response to the submissions the inspector asked if the parties could discuss the position over the lunchbreak and agree a solution. Such a discussion took place between myself and Angus Walker acting for Highways England together with representative from Highways England. Alex Codd of the Local Planning Authority also contributed to part of the discussion. I reported back to the inspector the agreed position at the open floor hearing in the afternoon. The inspector requested a note of agreed position which I now set out in paragraphs 2 to 4 below.
2. The parties agreed to invite the inspector to set an early date ("the Date") on which Highways England will have to choose which of the two alternative sites should proceed in the DCO and also on the Date make an amendment to the DCO to exclude the alternative site not chosen. Highways England proposed that this date should be the 17 May 2019 to reflect the fact that a planning application for the relocation of a business on the preferred site, Site A is to be considered by the Local Planning Authority on the 3 April with an officer recommendation for approval with no requirement for a Section 106 Agreement. When granted, such a permission would be subject to a six week judicial review period which would expire on 15 May and therefore allowing for a further couple of days, the 17 May was a reasonable date to set as the Date. The expectation was that on the Date, Highways England would confirm that the preferred site, Site A should be the only site in the DCO and amend the DCO accordingly to exclude Site B.
3. The parties agreed that such an amendment to the DCO could be treated as a non-material amendment in view of the fact that the DCO application and supporting documents make it clear that only one alternative will be required and that the preferred alternative is Site A. The inspector requested a written note on this point from Highways England and Highways England agreed to provide this.
4. I also requested that following the Date the inspector write to the parties confirming that the DCO will thereafter proceed only with the chosen site and that the alternative site will no longer be part of the application. The reason for this was that this would provide evidence to enable the owner of the site which was no longer part of the DCO to deal with the site and to show to any future tenants, occupiers or purchasers.

5. Although not specifically addressed at yesterday's hearing, it would seem sensible for any deadlines in the timetable which are before the Date not to be applicable to the alternative sites. In the absence of this, time could potentially be wasted preparing a case for a site which shortly will not be included in the DCO. With reference to the timetable discussed at the Preliminary Meeting and attached at Annex C to the invitation to the preliminary meeting letter dated the 22 February 2019, the following would be required. For Site B not applying Deadline 1 (Tuesday 23 April) (in particular in relation to the preparation of written representations and notification of the desire to speak at a compulsory acquisition hearing) nor Deadline 2 (Friday 10 May). Revised deadlines would need to be put in place in the event that Site B is not removed from the DCO however this would appear to be achievable given the fact that there is currently in the timetable a period reserved for further hearings, if required, on the week commencing 15 July. A timetable for written representations on Site B, should it proceed, could be introduced if necessary between the Date and 15 July. Given that the first deadline is on 23 April, the inspector is requested to provide an early decision on this.

**AMANDA BERESFORD
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27 March 2019