

**From:** [Bushra Ahmed](#) on behalf of [Amanda Beresford](#)  
**To:** ["A63castlestreet@PINS.gsi.gov.uk"](mailto:A63castlestreet@PINS.gsi.gov.uk)  
**Cc:** [Amanda Beresford](#)  
**Subject:** Written Representations on behalf of Princes Quay Retail Limited - A63 DCO  
**Date:** 18 April 2019 10:01:24  
**Attachments:** [Written Representation on behalf of Princes Quay Retail Limited 18.04.2019.pdf](#)

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Dear Sirs

Further to the Rule 8 letter dated 1 April 2019 and in accordance with the examination timetable, we attach written representations to the DCO on behalf of Princes Quay Retail Limited.

Please also accept this email as formal notification as Princes Quay Retail Limited's wish to speak at the compulsory acquisition hearing, week commencing 15 July 2019 in the event that the DCO is not amended by then to exclude our client's site from the DCO (being the alternative compound site known as Site B or the Staples Site). Please note, in this event we would wish to submit further representations.

Yours faithfully

**SHULMANS LLP**



Amanda Beresford  
For and on behalf of Shulmans LLP  
10 Wellington Place  
Leeds  
LS1 4AP

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**Shulmans**<sup>LLP</sup>

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**| 18 April 2019**

**Application By Highways  
England For An Order Granting  
Development Consent For The  
A63 Castle Street Improvement  
Scheme**

**Written Representation On  
Behalf Of Princes Quay Retail  
Limited |**

| 10 Wellington Place  
Leeds  
LS1 4AP  
Ref: AB/BA/P33459.11 |

- 1 This statement is submitted on behalf of Prince Quay Retail Limited ("PQRL") and is an objection to the inclusion in the DCO of the alternative compound site known as "Site B"/the Staple Site.
- 2 The details of PQRL's objection are set out in the following documents which are attached:
  - 2.1 Appendix 1 – Letter to Highways England dated 4 June 2018.
  - 2.2 Appendix 2 - Email to PINS dated 20 March 2019 attaching a letter to PINS dated 5 October 2018.
  - 2.3 Appendix 3 – Statutory Objection
  - 2.4 Appendix 4 – Note to the Inspector following the preliminary meeting dated 27 March 2019.
  - 2.5 Appendix 5 - Letter from the Inspector dated 5 April 2019.
- 3 The position has developed since the 27 March 2019 as follows. On the 3 April planning permission was granted for the preferred compound site known as "Site A" the Arcos Site. The judicial review period for this planning permission will expire on the 17 May and therefore in accordance with the agreed position at the preliminary meeting, our expectation is that Highways England will on 17 May make an application to the Inspector to remove Site B from the DCO as a non-material change. At the preliminary meeting, PQRL and the applicant, Highways England, both confirmed to the Inspector that the removal of Site B would in their view be a non-material change and the Applicant's written confirmation of this position is awaited. The Inspector has confirmed that if the Applicant does request a non-material change to amend the DCO by removing Site B and accepts that the change is non-material then the scheme can be amended to exclude Site B and only the amended scheme will then be examined.
- 4 The "blighting" effect on the site of the current position continues to harm the area. PQRL continues to suffer a loss and currently, despite continued interest in the site, PQRL cannot complete a sale of any interest in the site whilst it is included in the DCO. It is therefore imperative that this matter is resolved as speedily as possible.

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## Appendix 1



Our Ref: AB/BA/P33459.11

Your Ref:

.....  
Shulmans LLP  
10 Wellington Place  
Leeds LS1 4AP  
.....

**BY FIRST CLASS RECORDED DELIVERY**  
A63 Castle Street Improvement Project Team  
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Lateral  
8 City Walk  
Leeds  
LS11 9AT

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DX 729700 Leeds 69  
www.shulmans.co.uk

4 June 2018

Dear Sir/Madam

**A63 Castle Street Improvement Scheme – Staples Site proposed Compound**

We are instructed by Princes Quay Retail Limited the Owner of the site located in the north-eastern corner of the Mytongate/Ferensway Junction (previously occupied by a Staples store and other stores) ("the Site"). This letter is an objection to the proposed use of the Site by Highways England as a bentonite concrete compound.

Our clients understand that in pursuing the Highway Improvement Works known as the A63 Castlegate Scheme, Highways England wish to use the Site as a compound to store bentonite and jet grout, manufacture and produce concrete and handle materials – "an all purpose production compound" ("the Compound").

It is further understood that the Compound will be required for a period of five years and that proposed operations at the Compound may have to be carried out throughout the night and deliveries may have to be made overnight.

It is also understood that the A63 Castle Street Scheme constitutes a nationally significant infrastructure project which to proceed will require authorisation from the Secretary of State in the form of a Development Consent Order ("DCO") and that the application for the DCO is intended to be made in the summer of 2018 with the provisional start date for the scheme being March 2020.

The immediate environment of the Compound includes the Princes Quay Shopping Centre and the newly constructed Hull Venue. The Shopping centre is a multipurpose shopping centre incorporating a large variety of retail outlets along with a Vue Cinema, a twelve lane bowling alley, soft play and Quasar facilities and restaurant. It is built around the central atrium which hosts events, activities and community projects. The ten-screen cinema complex is one of the only fully digital cinemas in the whole of Europe. The Hull Venue is a state of the art music and events complex with a capacity of up to 3500. It includes exhibition space and a conference auditorium as well as hosting major touring concerts, shows and sporting events. The venue was developed with the assistance of a £36 million Hull City Council capital investment. The first major event is due to take place in September with Strictly Coming Dancing, The Professionals and Roger Taylor and Brian May's Queen Extravaganza booked. Generally, the environment is an important gateway to the City.

The purpose of this letter is to inform you that our clients strongly object to the proposed use of the Site as a Compound and have instructed us to pursue the objection formally through the DCO process if necessary. The grounds upon which our clients' object are as follows:

1. The proposed use of the site as a Compound would have a serious impact on the trading position of Prince Quay due to noise, dust, traffic generation and general visual impact, all of which would have a negative impact on the retail and leisure experience of Prince Quay's customers.
2. The fact that the Site cannot realistically be developed for any other purpose before it would be used as a Compound means that in the intervening period the continued vacancy of the Site is also not conducive to the success of Princes Quay as a retail and leisure centre.
3. Princes Quay Retail Limited had plans to develop the Site in a manner which was complimentary to the adjacent retail and leisure uses. The publication of Highways England's proposed use of the Compound means that the site is now effectively sterilised. Princes Quay Retail Limited can do nothing with it and it will therefore result in loss of significant income both in terms of inability to use the Site for other purposes and impact on the trading at Princes Quay.
4. The proposed Compound would also be an unacceptable neighbour to the newly opened Hull Venue for the same reasons as specified at 1 above, detracting significantly from the experience of visiting the Venue.
5. The development of the Site for retail purposes has been acknowledged in local planning decisions and would be the proper use of the Site. Indeed, at a planning inquiry last autumn, relating to the nearby out of town development at Kingswood, a proposed retail development planning permission was refused on the basis that there were alternatives sites for retail development. The alternatives included the Site.
6. Generally, the Site is part of an important gateway to the city which the Compound, no matter how well disguised, would detract from the approach to the City of Hull and the surrounding town centre area.
7. There are other alternative sites for the Compound which would not have the above detrimental effects.
8. HE have not made reasonable attempts to purchase the Site by private treaty. Highway England's offer to agree a price now but to leave the actual purchase until after grant of the DCO is totally unacceptable and continued discussions on this basis would not therefore be productive.

Yours sincerely



**AMANDA BERESFORD**  
For and on behalf of Shulmans LLP

Direct Dial: 0113 297 8070  
Email: [aberesford@shulmans.co.uk](mailto:aberesford@shulmans.co.uk)

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## Appendix 2



## Amanda Beresford

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**From:** Amanda Beresford  
**Sent:** 20 March 2019 12:26  
**To:** 'A63 Castle Street'; 'A63castlestreet@PINS.gsi.gov.uk'  
**Subject:** RE: TR010016 - A63 Castle Street Improvement Scheme - Hull  
**Attachments:** Letter to the Planning Inspectorate 05.10.2018.pdf

Further to my e-mail below I confirm I will also be attending the Open Hearing on the afternoon of Tuesday the 26<sup>th</sup> March to represent my clients.

Brief details of the procedural matter we wish to raise on Tuesday are as follows.

It is unlawful to include alternative sites for the compound in the DCO. We sent a letter to PINS regarding this issue on the 5 October last year. A further copy of this letter is attached.

Although we have received an acknowledgement of receipt we have had no reply to this letter.

The consequence of the unlawful inclusion of alternative sites in the DCO is becoming more serious as the letting of my client's site ('Site B') is frustrated by its inclusion in the DCO and this is resulting in potential financial loss to my client which, if my client's site is subsequently removed from the DCO may not be compensated. ( Removal of my client's site from the DCO could occur because my client's site is not the preferred site - its inclusion is only to cover the possibility that 'Site A' is not acquired, even though the acquisition of Site A could be pursued by compulsory purchase ). The inclusion of alternative sites in the DCO is an abuse of the process and in the circumstances we request that the Inspector deals with this procedural issue next Tuesday.

Please could you pass a copy of this email and the attached letter to the Inspector before the meeting next Tuesday.

Kind regards

Amanda Beresford

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**From:** Amanda Beresford  
**Sent:** 19 March 2019 14:39  
**To:** A63 Castle Street <A63Castlestreet@planninginspectorate.gov.uk>; A63castlestreet@PINS.gsi.gov.uk  
**Subject:** RE: TR010016 - A63 Castle Street Improvement Scheme - Hull

Thank you for the notification of the A63 Application Preliminary Meeting to be held on the 26<sup>th</sup> March . Please note that I will be attending to represent my clients Princes Quay Estates Limited , Princes Quay Retail Limited and Princes Quay Developments Limited.

Kind Regards

Amanda Beresford

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**From:** A63 Castle Street [<mailto:A63Castlestreet@planninginspectorate.gov.uk>]  
**Sent:** 22 February 2019 13:44  
**To:** Amanda Beresford <[aberesford@shulmans.co.uk](mailto:aberesford@shulmans.co.uk)>  
**Subject:** TR010016 - A63 Castle Street Improvement Scheme - Hull

**Planning Act 2008 – Section 88 and The Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 6**  
**Application by Highways England for the A63 Castle Street Hull Junction Improvement Project.**

**Notice of Preliminary Meeting, availability of Relevant Representations and notification of hearings**



Our Ref: AB/BA/P33459.11

Your Ref:

.....  
Shulmans LLP  
10 Wellington Place  
Leeds LS1 4AP  
.....

The Planning Inspectorate  
Major Applications and Plans (DCO Application A63 Castle Street Improvement Hull)  
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**By Email & Post: [NIEnquiries@pins.gsi.gov.uk](mailto:NIEnquiries@pins.gsi.gov.uk)**

5 October 2018

Dear Sir

**URGENT**

**DCO Application – A63 Castle Street Improvement – Hull**

We act for Prince Quay Retail Limited.

We understand that a DCO application for A63 Castle Street improvement – Hull was received by the Planning Inspectorate from Highways England on 20 September 2018 ("the Application"). We further understand that the Planning Inspectorate is currently reviewing the application and deciding whether or not to accept it and that the acceptance decision should be made by Thursday 18 October.

We understand that objections to the application cannot be made until after the application has been registered and should the application be registered our clients will be making appropriate representations at that time. However our clients are concerned that there are errors in the application of which you should be aware and which should lead to the application not being registered. It is therefore appropriate for you to consider the contents of this letter prior to determining whether or not to accept the application.

The reason why the application is flawed is as follows:

It proposes two alternative sites for the location of a temporary (several years) materials batching and bentonite production plant compound ("the Compound"), a preferred site, Site A (known as the Arcos Site) and an alternative site, Site B (known as the Staples Site). Our clients owns Site B.

The inclusion of two alternative Sites is contrary to relevant Development Consent and Compulsory Purchase law and policy and the application should not therefore be registered.

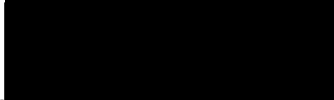
Section 122 of the Planning Act 2008 provides as follows:

*"An order granting Development Consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that the conditions in subsections (2) and (3) are met".*

public disbenefits flowing from its inclusion and if it is ultimately not included in the DCO the owners will have no right to compensation and none in any event for the long period for which it has been "blighted". All of this is unnecessary given the existence of an alternative and preferred site – Site A

We look forward to receiving your confirmation that this letter will be taken into account in deciding whether or not to register the application and that the application accordingly should not be registered for the reasons given above.

Yours faithfully

A solid black rectangular redaction box covering the signature of the sender.

**SHULMANS LLP**

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## Appendix 3

# National Infrastructure Planning

[Cymraeg](#)
[FAQs](#)

Highways:

## A63 Castle Street Improvement-Hull

by Highways England

[Acceptance](#)
[Pre-examination](#)
[Find out](#)


The notification of Preliminary Meeting (Rule 6 letter sent

***The letter also includes the draft Examination Timetable and Initial Assessment Issues.***

[Overview](#)
[s51 advice](#)
[Documents](#)
[Relevant representations](#)

The views expressed in this page do not represent those of the Planning Inspectorate. This page consists of content submitted to the Planning Inspectorate by the public and other interested parties, giving their views of this proposal.

### About this

The Scheme of improvement 1.5km of the side roads in Street and th

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## A63 Castle Street Improvement-Hull

Received **18 December 2018**From **Shulmans LLP** on behalf of **Princes Quay Retail Limited**  
*Representation*

1. Two alternative sites are proposed for the temporary (several years) materials plant compound, a preferred site, "Site A" (known as the Arcos Site) and an alternative site, "Site B" (known as the Staple Site). Princes Quay Retail Limited ("PQRL") owns Site B. The inclusion of alternative sites is contrary to relevant development consent and compulsory purchase law, and policy.

2. The fact that there is a preferred Site A means it cannot be demonstrated that Site B is required for the development. The inclusion of Site B as an alternative is contrary to the policy provision that the Secretary of State must be satisfied that the acquisition is no more than is reasonably required for the development. Site A alone can satisfy this requirement.

3. It cant be demonstrated that Site B is required to facilitate or is incidental to, the development as Site A is the preferred site and can

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fulfil this function.

4. The inclusion of Site B is more than reasonably necessary for the development and it is not proportionate to include it in the DCO, given its impact as referred to below, because it is Highways England's position that Site A can achieve the development.

5. There is no compelling case in the public interest for Site B to be acquired compulsorily as there is an alternative Site A which is preferred by Highways England.

6. PQRL owns a legal interest in Myton Street Retail Park. The plans indicates that the DCO will allow the acquisition of a sliver of land along the south-western edge of the retail park and the temporary acquisition of part of the retail park. This would have an unacceptable impact on the retail park.

7. The proposed use of Site B as a compound would have a serious impact on the trading position of Princes Quay Shopping Centre due to noise, dust, traffic generation and general visual impact.

8. The site is to be used as a compound for a period of five years. In the intervening period, the continued vacancy of the site is harmful to the success of Princes Quay as a retail and leisure centre.

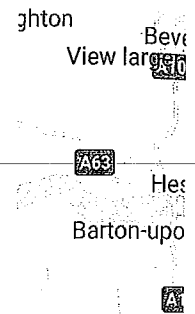
9. Highway Directions signage to Princess Quay Shopping Centre and Myton Street Retail Park to be replaced/relocated.

10. The proposal is preventing the development of Site B in a manner complimentary to the adjacent retail and leisure use resulting in loss of significant income both in terms of inability to use Site B for other purposes and the impact of the proposed use on the trading at Princes Quay.

11. The proposed use of Site B would have an unacceptable impact on the nearby newly opened Hull Venue and the surrounding important gateway area.

12. The development of Site B for retail purposes use is being frustrated by the identification of the site as an alternative compound.

13. There is another alternative site for the compound which Highways England prefer. "



## Contact in

Planning Insp  
[A63castlestre](#)  
0303 444 500

Developer:  
[Bernice Beckl](#)  
2336

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**Appendix 4**

**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**

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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  
SHULMANS LLP**

**27 March 2019**

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**Appendix 5**



National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Customer Services: 0303 444 5000

e-mail: [A63castlestreet@PINS.gsi.gov.uk](mailto:A63castlestreet@PINS.gsi.gov.uk)

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Amanda Beresford  
Shulmans LLP

Your Ref:

By email

Our Ref: TR010016

Date: 5 April 2019

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Dear Mrs Beresford

## **Planning Act 2008 – Section 88 and The Infrastructure Planning (Examination Procedure) Rules 2010**

### **Application by Highways England for an Order granting Development Consent for the A63 Castle Street Improvement Scheme**

Many thanks for your contributions to the Preliminary Meeting (PM) of 26 March and your subsequent Note of 27 March, in which you have explained your client's concerns relating to proposals regarding the alternative compound sites (Sites A and B). My comments on the points you raise are as follows:

- You have asked me to impose a date (17 May) by which the Applicant should choose the preferred site and amend the application accordingly. While the Applicant confirmed its willingness to do this at the PM, I do not consider that it would be within my powers to direct the Applicant to do so. Nevertheless, I have noted the Applicant's positive response to the date you suggested at the PM and hope that this will give your client some assurance that this matter will be resolved within that timescale.
- The Applicant was of the view that removing Site B from the scheme would not be a material change. As you say, I asked for written confirmation of the Applicant's view regarding this. If I receive a request from the Applicant to amend the scheme by removing Site B, I will need to consider at that point whether the change is material or not and make a procedural decision as to whether it will be accepted. If the change is accepted, then only the amended scheme will be examined.
- I have considered carefully your suggestion of amending the timetable to allow for the uncertainty relating to Site B, but feel that it would be premature to do so at this stage. However, I appreciate your desire not to spend unnecessary time and expense preparing a case relating to a site that

appears likely to be removed from the scheme. In view of this, I would make the following points:

- I am perfectly content that you specifically request the week in which you would like any Compulsory Acquisition Hearing addressing this site to be held (ie you could request the w/c 15 July rather than the w/c 3 June). This would allow you time to withdraw the request if Site B is subsequently removed from the scheme.
- Now that you have raised the matter, I am mindful that you may have good reason to wish to make submissions later in the Examination process if Site B is not removed from the scheme, even if you do not make a written representation (or make only an outline of your case) at Deadline 1. I will consider any request to make a later submission with regard to the circumstances at the time. Please also bear in mind that Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 enables me to request further information or written comments at any time during the examination.

I trust that the above points are of some assistance regarding this matter.

Yours sincerely

*Peter Willows*

**Peter Willows, Examining Inspector**

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