



Our Ref: EZT/BA/M40909828.1

Your Ref:

Shulmans LLP
10 Wellington Place
Leeds LS1 4AP

The Planning Inspectorate
Major Applications and Plans (DCR Application A63, Castle Street Improvement, Hull)
3/8 Eagle Wing
Temple Quay House
Temple Quay
Bristol
BS1 6NP

Tel: +44 (0)113 245 2833
Fax: +44 (0)113 246 7326
DX 729700 Leeds 69
www.shulmans.co.uk

By Email: A63castlestreet@PINS.gsi.gov.uk

23 April 2019

Dear Sir

**Development Consent Order Application – A63, Castle Street Improvement, Hull (“DCO”)
Our client: Mytongate Development Company Limited**

We are instructed by Mytongate Development Company Limited (“Mytongate”) which is the residents’ management company for Trinity Court, Fish Street, Hull, HU1 2NA (“Land”) and is the registered proprietor for the freehold interest in the Land registered under title number HS391449.

Request to Become and Interested Party

Our client wishes to be treated as an Interested Party for the Examination Procedure pursuant to the Infrastructure Planning (Examination Procedure) Rules 2010 and we submitted an online registration form to that effect pursuant to Regulation 4(1) of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015/5462 on 17 April 2019.

Mytongate’s interest in the Land is affected by the DCO with regard to plots 5/5a to 5/5f (inclusive) which comprises the following:

- 5/5a to 5/5d - land to be occupied for use temporarily; and
- 5/5e and 5/5f - land to be acquired or used permanently for construction, operation and maintenance works.

Mytongate were unaware of the requirement to register a relevant representation until receipt of a letter dated 1 April 2019 from the Planning Inspectorate providing a link to the Rule 8 letter following the Preliminary Meeting on 26 March 2019. We request that in light of Mytongate’s interest in the Land, parts of which are included in the DCO that it is accorded formal status as an Interested Party for the purposes of the examination of the DCO.

Grounds for Objection

The grounds on which our client objects to the inclusion of plots 5/5d, 5/5e and 5/5f are as follows:

1. No Justification for the Land to be Permanently Acquired

- 1.1 To date there have been no efforts made by the Applicant to negotiate with Mytongate to acquire the interest in Plots 5/5e and 5/5f. This is contrary to its assertion at paragraph 1.4.3 of the Statement of Reasons that it has entered into negotiations to acquire interests voluntarily.
- 1.2 The DCO proposes the stopping up of Fish Street so that there is no vehicular access from at the junction of Fish Street and the A63. Plots 5/5e and 5/5f are located on Fish Street in the entrance to Trinity Court and are to be acquired on a permanent basis pursuant to the DCO to create a turning head for large vehicles at the end of Fish Street. However, no evidence has been provided by the Applicant to support the choice of the entrance to Trinity Court as being the most suitable area for use as a turning head that would necessitate its inclusion in the DCO. In particular there has been no assessment in the supporting documentation for the DCO of:
- 1.2.1 the suitability of the entrance to Trinity Court to accommodate large vehicles; or
- 1.2.2 alternative locations for the turning head at wider points (e.g. the junction between Fish Street and Grammar School Yard).

Consequently the Applicant has failed to show that the powers of compulsory acquisition are necessary, proportionate and justified or that there is a compelling case in the public interest to permanently acquire Plots 5/5e and 5/5f for the purposes of the DCO.

2. No Assessment of Impact of Proposed Turning Head on Residential Amenity

- 2.1 Section 104(3) of the Planning Act 2008 states that the Secretary of State must decide the application in accordance national policy, the relevant one being the National Network's National Policy Statement ("NN NPS"). Paragraph 3.2 of the NN NPS states: *"The Government recognises that the development of the national road...networks ...should be designed to minimise social and environmental impacts and improve quality of life"*.
- 2.2 Paragraph 3.3 of the NN NPS states that: *"In delivering new schemes, the Government expects applicants to avoid and mitigate environmental and social impacts in line with the principles in the NPPF and the Government's planning guidance"*.
- 2.4 Paragraph 4.81 of the NN NPS states: *"Where the proposed project has likely significant environmental impacts that would have an effect on human beings, any environmental statement should identify and set out the assessment of any likely significant adverse health impacts"*.
- 2.5 Paragraph 4.82 of the NN NPS goes on to state: *"The application should identify measures to avoid, reduce or compensation for adverse health impacts as appropriate"*.
- 2.6 Paragraph 5.188 of the NN NPS refers to factors that could determine the likely noise impact including:
- *"Construction...the inherent operational noise from the proposed development and its characteristics;*
 - *The proximity of the proposed development and noise sensitive premises (including residential properties...)"*
- 2.7 The inclusion of plots 5/5e and 5/5f in the proposed DCO is not in accordance with the guidance set out in the NN NPS. The creation of a turning head in the entrance of Trinity Court would have a significant adverse impact on the residents. Trinity Court is comprised of a mixture of 54 small town houses and flats which are laid around an inner

courtyard area which provides parking and some green space / landscaping. The boundary between Trinity Court and Fish Street is marked by a security fence and electric gates. This creates an enclosed residential area which allows for increased likelihood of reverberation of sound and the potential containment of vehicle exhaust fumes.

- 2.8 There are approximately 93 residents in Trinity Court who will be adversely affected by the proposed turning head being located at Plots 5/5e and 5/5f. The impacts will include:
- Noise and vibrations from the engines of large vehicles reversing into the turning head, along with the reversing safety noises that such vehicles are fitted with;
 - Lights from such vehicles during hours of darkness;
 - Fumes from such vehicles which will be slow to dissipate due to being contained within the courtyard area; and
 - Restricted access to and egress from Trinity Court for residents with vehicles when large vehicles are using the proposed turning head.
- 2.9 In particular, the entrance to Trinity Court is narrow and is bounded by 26 Trinity Court on the northern side of the entrance, and 27 and 29 Trinity Court on the southern side of the entrance. There is no scope to widen the entrance and these residential properties will be most significantly adversely affected due to their extreme proximity to large vehicles using the turning head, including the entrances to these properties, which is likely to create a significant health and safety risk when large vehicles use the turning head.
- 2.10 NN NPS states at paragraph 5.186:
"Excessive noise can have wide-ranging impacts on the quality of human life and health (e.g. owing to annoyance or sleep disturbance...) the Government's policy is set out in the Noise Policy Statement for England. It promotes good health and good quality of life through effective noise management. Similar considerations apply to vibration, which can also cause damage to buildings....in line with current legislation, references to noise apply equally to assessment of impacts of vibration".
- 2.11 Paragraph 5.189 of the NN NPS addresses in detail the assessment that is required for noise and vibration. This requires that where significant noise impacts are likely to arise from a proposed development, the applicant should include a noise assessment in the Environmental Statement which should provide:
- *"a description of the noise sources including likely usage in terms of number of movements, fleet mix and diagonal pattern..."*
 - *identification of noise sensitive premises and noise sensitive areas that may be affected.*
 - *the characteristics of the existing noise environment.*
 - *a prediction on how the noise environment will change with proposed development:*
 - *In the shorter terms such as during the construction period;*
 - *In the longer term during the operating life of the infrastructure;*
 - *At particular times of the day, evening and night as appropriate.*
 - *an assessment of the effect of predicted changes in the noise environment on any noise sensitive premises and noise sensitive areas;*
 - *measures to be employed and mitigating the effects of noise. Applicants should consider using best available techniques to reduce noise impact;*
 - *the nature and extent of the noise assessment should be proportionate to the likely noise impact".*
- 2.12 No assessment has been made in the Environmental Statement submitted with the DCO of the effect of noise and vibration on the residents of Trinity Court as a result of large vehicles using the turning head once the stopping up works to Fish Street have been completed. There is no assessment of the potential number of vehicles which would

need to use the turning head, nor the most likely times of day or night when this would occur. Because Fish Street is adopted highway large vehicles will be permitted to use it at all times without limitation which will have a significant noise / vibration impact on the residents of Trinity Court.

- 2.13 In addition, no assessment has been made of the number of vehicles which will require access to Fish Street during the course of the works required to stop up the access from Fish Street to the A63 and the impact of these on the residents of Trinity Court.
- 2.14 Given the lack of assessment by the Applicant for the impact of the inclusion of Plots 5/5e and 5/5f on the residential amenity for Trinity Court or the potential for the relocation of the turning head at another more suitable location on Fish Street, we would submit that these plots should be removed from the DCO application.

3. Adverse Impact of Turning Head on Mytongate's Commercial Interests

- 3.1 Mytongate subsidise the amount that the residents pay in service charges for the Land by charging non-residents who are local business users to use the parking in Trinity Court. The creation of a turning head in the entrance to Trinity Court will have an adverse impact on the ability of users of the car park to gain access to and exit safely from Trinity Court.

4. Removal of Gates

- 4.1 The Applicant states that it will require temporary rights to Plot 5/5d in order to relocate the entrances gates for Trinity Court from Plot 5/5e to this location. The gates are electric and it will require substantial works to remove these and install them in a new position. This change of location for the gates will adversely affect the entrances to properties at 26, 27 and 29 Trinity Court which are currently located inside the security gates and which would no longer be the case once the gates are moved.

Appearance at Examination

We also wish to notify you that we would wish to speak on Mytongate's behalf at any subsequent Issue Specific Hearing, Compulsory Acquisition Hearing and Open Floor Hearing that relates to the DCO and which may affect our client's interest. In particular, we would also request the opportunity to attend and speak on our client's behalf at the Compulsory Acquisition Hearing listed for the week commencing 3 June 2019.

Yours faithfully


SHULMANS LLP

Direct Dial: 0113 288 2842
Email: ethomas@shulmans.co.uk