



Historic England

**RESPONSES TO EXAMINING AUTHORITY'S
QUESTIONS 01/04/2019
ON BEHALF OF THE
HISTORIC BUILDINGS AND MONUMENTS COMMISSION FOR ENGLAND
(HISTORIC ENGLAND)
("HBMCE")**

Application by

**Highways England for an Order granting Development Consent for the
A63
Castle Street Improvement Scheme, Kingston Upon Hull**

**PINS Reference No: TR010016
HBMCE Reference No: 20016278**

1. INTRODUCTION

1.1. ROLE OF THE HISTORIC BUILDINGS AND MONUMENTS COMMISSION FOR ENGLAND

1.2. The Historic Buildings and Monuments Commission for England is generally known as Historic England. However due to the potential for confusion in relation to “HE” (Highways England and Historic England), we have used “HBMCE” in our formal submissions to the examination to avoid confusion. HBMCE was established with effect from 1 April 1984 under Section 32 of the National Heritage Act 1983. The general duties of HBMCE under Section 33 are as follows:

“...so far as is practicable:

- (a) to secure the preservation of ancient monuments and historic buildings situated in England;
- (b) to promote the preservation and enhancement of the character and appearance of conservation areas situated in England; and
- (c) to promote the public’s enjoyment of, and advance their knowledge of, ancient monuments and historic buildings situated in England and their preservation”.

We also have a role in relation to maritime archaeology under the National Heritage Act 2002 and advise Government in relation to World Heritage Sites and compliance with the 1972 Convention Concerning the Protection of the World Cultural and National Heritage.

2.0 HBMCE’s RESPONSES TO THE QUESTIONS

2.1 Question 1.5.1

Title: Key Heritage Impacts

The Executive Summary of the applicant’s Cultural Heritage Assessment [APP-066] identifies some adverse effects of the scheme (paras 8.1.1. –

8.1.4). Are these the key cultural heritage matters on which the Examination should focus?

HBMCE Response

HBMCE considers that the Executive Summary of the applicant's Cultural Heritage Assessment [APP-066] (paras 8.1.1 – 8.1.4) broadly identifies the cultural heritage matters on which the Examination should focus. However, although mentioned in the ES as being the subject of physical works or works within their setting, there is no explicit reference to the Grade I Listed King William III Statue and flanking lamps (NHLE 1197697), and no explicit reference to the Beverley Gate Scheduled Monument (NHLE1430250) in the specific paragraphs identified above. It is not clear therefore whether the applicant has correctly considered and assessed the impact of the proposed works on these designated heritage assets, and therefore it is our view that the Examining Authority should consider these heritage assets as key elements within the Scheme.

2.2 Question 1.5.2

Title: Earl de Grey public house

Can you please clarify the proposals in respect of the Grade II listed Earl de Grey? In particular, is it proposed to demolish the building or is to be rebuilt elsewhere? If it is to be rebuilt, where will it be rebuilt and has a detailed scheme been prepared?

HBMCE Response

We note that this question is directed to the Applicant, however we would note that the A63 Improvement Scheme requires that the Earl de Grey public house is to be demolished in order to construct the carriageway improvements, and to provide an adequate and safe public realm alongside the carriageway. It is further proposed that a portion of the Earl de Grey is rebuilt adjacent to its current location but incorporated into a proposed commercial development scheme. There is a live planning and LBC application for this commercial scheme. HBMCE has identified that the proposal to demolish the listed building would cause substantial harm to its significance.

It is clearly for the Examining Authority to come to a conclusion on this aspect of the proposal, however we would note that paragraph 5.136 of the NN NPS states that where the loss of significance of any heritage asset has been justified by the applicant based on the merits of the new development and the significance of the asset in question, the Secretary of State should consider imposing a requirement that the applicant will prevent the loss occurring until the relevant development or part of development has commenced. HMBCE questions whether there is scope within the granting of the DCO to ensure that the demolition of the Grade II listed Earl de Grey public house does not take place until it is absolutely necessary, in order to deliver the construction of the relevant part of the road improvement scheme, but also to be correctly sequenced in the planning and Listed building consent process for the commercial development.

2.3 Question: 1.5.3

Title: Castle Street Chambers

- **What in detail is proposed regarding the partial demolition of the Grade II listed Castle Street Chambers? How will the retained part of the building be protected during construction?**
- **How will the changes to the setting of the Castle Street Chambers affect its significance?**

HBMCE Response

As far as we understand it, from speaking to Hull City Council, the required demolition of the unsafe and fire damaged portion of this building has already been undertaken, carried out in December 2018. Please see section 6.3.1 and 6.3.2 of our Written Reps. Therefore we are not clear whether the references to 'demolition' within the ES refer to the demolition already undertaken, or to a subsequent demolition proposal yet to be discussed (see 6.3.7 of our Written Reps).

The Landscape Plan (ES, Volume 2, Fig 9.8 Landscaping Proposals) identifies a tree to be planted to the west of the Grade II Listed Castle Street Chambers and indicates the surface treatment materials for the surrounding public realm.

However, there is no explanation within the ES of the degree to which the setting of Castle Street Chambers contributes to its significance (please refer to section 6.3.5 of our Written Reps) and how this could be enhanced through the changes

proposed to its setting. Please see sections 6.3.8, 6.3.9, 6.3.10 and 7.3.1 of our Written Reps.

2.4 Question 1.5.5

Title: Trinity Burial Ground

**Why does Historic England consider that the archaeological strategy for the Trinity Burial Ground site is not consistent with sector-wide published guidance on the excavation of Christian burial grounds?
How would you like to see the strategy amended?**

HBMCE Response

As stated in our Written Reps (paras 6.5.1 to 6.5.12 and 7.5.1 to 7.5.3) we consider that the decision by Highways England not to allow for the further off-site scientific analysis of a representative sample of the buried population is contrary to published and agreed sector wide guidance on the treatment of human remains from Christian burial grounds.

Current good archaeological practice (established in *Guidance for Best Practice for the Treatment of Human Remains Excavated from Christian Burial Grounds in England*, Advisory Panel on the Archaeology of Burials in England, 2017 2nd ed and *Burial Grounds: guidance on sampling in archaeological fieldwork projects*, Advisory Panel on the Archaeology of Burials in England, 2015) requires that the opportunity for additional analytical work is undertaken off-site on an appropriately sized sample, but funded by the research community (rather than the developer) who have very specific research questions to ask of the material. The corollary of this is that development projects affecting large scale burial sites should allow an appropriate timescale for the removal of human material, the further research on that material and its later reburial, preferably on the site from which it came. This has not been included in the case of the Trinity Burial Ground. Whilst Highways England have allowed for and say that they will fund limited analysis of a small sample size as a direct result of the physical impact of their scheme, they have not provided the safeguards necessary for this additional research.

HBMCE recognises the ethical considerations associated with the study of human remains generally and the Trinity Burial Ground in particular and the wishes of the Holy Trinity PCC. As the lead national authority on heritage matters, HBMCE has

amassed considerable experience on the archaeological potential of human remains. In our professional judgement we consider that a sample size of 3,000 individuals removed from the Trinity Burial Ground, held for a maximum period of 10 years by the research community (this would allow for the research community to generate the grant support to carry out the work and the research period to conduct the work) and then reburied on site would be appropriate. We would only accept this reduced sample size from Trinity Burial Ground if all the human remains recovered from the recent excavations around Holy Trinity Church, Hull are added to the 3,000 sample (in this sense an “individual” is represented where there is >25% of the skeleton remaining), thereby creating a more appropriate sample size and extending the date range of the individuals from medieval to 19th century (section 7.5.3 of our Written Reps). Additional funding for this latter piece of work has already been identified in the Highways England Designated Funds initiative but not yet agreed.

2.5 Question 1.5.6

Title: Archaeological Strategy

Why does Historic England consider that the suggested archaeological strategy for the scheme is not consistent with current Historic England or Chartered Institute for Archaeology guidance on good practice?

What else should the scheme include in terms of mitigation?

HBMCE Response

The proposed improvement of the A63 offers an unparalleled opportunity to understand the archaeology and origins of a provincial English city. The long, horizontal transect through the southern and western part of the city has the potential to allow investigation from the earliest prehistoric deposits to the early modern character of Hull. As a consequence HBMCE would expect that the necessary archaeological strategy reflected current good practice, was comprehensive, internally consistent and reflected the potential of the different technical and scientific tools of the archaeological discipline, in order to make the most of this rare opportunity.

As stated in our Written Reps (paras 6.6.1 to 6.6.20 and 7.6.1 to 7.7.1) the Environmental Statement (ES) presented by Highways England does not present a

clear and unambiguous archaeological strategy and as such we do not consider that it conforms to the ClfA *Standards and guidance for archaeological excavation* (ClfA December 2014), as, in its current form it will have “failed to examine and record the archaeological resource within a specified area because of the way in which it was conducted” (ClfA *Standards and guidance for archaeological excavation* December 2014, p.3).

The suggested archaeological strategy is spread over several documents in the ES, and as a consequence does not appear to have been amalgamated into a single approach.

There are two specific failings in the suggested archaeological response:

- i) The documents provided by Highways England are contradictory, and include unsubstantiated claims, and
- ii) The suggested approach privileges the idea of archaeology as defined by “remains” rather than knowledge gain.

The contradictions in the archaeological strategy are best illustrated by reference to the Assessment, Watching Brief and Deposit Model (OA-HFA January 2014), section 5.1.1 states that the site ‘contains significant below-ground archaeological and geoarchaeological remains’ which have the potential to hold deposits that ‘relate to the potential early use of the Humber Estuary and River Hull, during the prehistoric period.’ The statement of high potential for prehistoric archaeology and palaeoenvironmental deposits in the previous work is directly contradicted in Vol 6, 6.8 Cultural Heritage Assessment , section 8.6.13 and 8.6.14, as well as table 8.5 of the ES. The implication of this confusion throughout the archaeological documents is that it is impossible to identify a credible and internally consistent archaeological mitigation strategy.

The manner in which ‘remains’ are privileged over ‘deposits and knowledge gain’ relates to the item above, but in general terms the suggested archaeological mitigation does not include enough archaeological science and does not include any response to deep interventions such as piling which ought to be an automatic addition in such a major development. For example, Table 8.5 (page 19) of the Executive Summary of the ES states that the palaeoenvironmental potential is low (contradicting the Deposit Model) and medieval and post-medieval potential

medium to high. Table 8.6 (page 19 and 20 of the Executive Summary) presents the 'key archaeological assets in the Scheme', but does not include the palaeoenvironmental deposits which have the highest potential of all the archaeological elements affected by the Scheme to extend understanding and deliver knowledge gain.

The palaeoenvironmental potential of the area affected by the Scheme is high, and the potential for prehistoric archaeology is moderate to high throughout all zones at varying depths throughout the Scheme, and this should be reflected in the archaeological strategy which we consider to be incomplete at present.

2.6 Question 1.5.7

Title: Enhancement of Heritage Assets

Having regard to paragraphs 5.130 and 5.137 of the NN NPS, does the scheme take any opportunities to enhance heritage assets or their settings? What else, if anything, could be reasonably achieved?

HBMCE Response

The impact assessment focuses on identifying harm to heritage assets and where possible minimising the harm rather than taking any opportunities to enhance the significance of heritage assets. We welcome all attempts to minimise harm, but the opportunities to enhance and communicate significance need to be clearly identified and delivered.

We have identified a number of areas where improvements to the Scheme can be made. These improvements relate to the scope of the Scheme, but also to the way in which physical impacts can be modified.

Scope of the Scheme:

We consider that the archaeological component of the Scheme should be supported by a comprehensive outreach, public participation and interpretation initiative. This has been proposed to accompany the works to the Trinity Burial Ground, but needs to be extended across the whole Scheme. Associated with this is the need to follow established good practice with regard to the further study of the human material from the burial ground. HBMCE has been in consultation with HE with regard to the use of the HE Designated Funds to create and deliver this

public benefit and we have identified a number of projects which will form part of this outreach and participatory work. A number of projects are being considered by HE, such as a heritage craft skills initiative associated with the dismantling and rebuilding of the Earl de Grey public house (as a way of mitigating the impact of an otherwise novel and contentious proposal for a listed building, establishing a practical legacy and using its significance).

Two further Designated Funds proposal relate to the archaeological component of the Scheme. HBMCE considers that there is the potential to enhance the significance of the archaeological component of the Scheme through a well-designed and funded outreach and public engagement strategy. Such a strategy has been identified for the Trinity Burial Ground but needs to be extended across the entire archaeological intervention. However, the Earl de Grey craft skills project and the suggested archaeological outreach projects have been costed, but have yet to be agreed.

Physical impacts:

HBMCE considers that the interface of the development corridor with the Old Town Conservation Area is a critical element of the Scheme and there is an opportunity to create a positive and beneficial public realm that can mitigate the impact of the Scheme but also enhance the significance of the heritage assets. This would require that HE should develop an integrated designed approach in terms of the materials to be used here which relates to the recently undertaken public realm works in the wider area undertaken for the UK City of Culture 2017. Please see section 6.7.3, 6.8.3, 7.8.1 and 9.4 of our Written Reps.

2.7 Question 1.5.8

Title: Beverley Gate and adjacent archaeological remains Scheduled Ancient Monument.

Table 4.1 of the Outline Environmental Management plan [APP-072] says that Scheduled Monument Consent may be required for Beverley Gate and archaeological remains, depending on if it is affected by utilities diversions. Has this now been clarified? If not when will it be clarified? See also Question 1.0.12 – Other Consents.

HBMCE Response

The possible extent and impact of the proposed works on the Beverley Gate scheduled monument have not been clarified (see 2.1 above). Whilst understanding that a separate Scheduled Monument Consent, or indeed separate listed building consent, is not required for works to a scheduled monument, or listed building respectively, in accordance with the Planning Act 2008, it is expected that works to any scheduled monument or listed building within the DCO application will be set out in detail so that the legislative and policy requirements for determination of the impacts on these designated heritage assets will be correctly discharged. Our understanding is that should works take place to a scheduled monument or listed building which is not covered by the DCO application would require separate scheduled monument consent and separate listed building consent.

In respect of the Beverley Gate scheduled monument the details of these works to the scheduled monument should have been set out clearly so that they can be considered as part of the DCO application. However, these details have not yet been clarified and it is unclear when they will be clarified. We would expect that Highways England would present clear details of the work that will be undertaken together with a comprehensive scheme of archaeological mitigation in relation to these works. We would be pleased to consider these details and advise further when this information is forthcoming.

2.8 Question 1.5.9

Title: Assessment and weighing of public benefits

Paragraphs 5.132 – 5.134 of the NN NPS and paragraphs 195 and 196 of the NPPF require public benefits of the scheme to be considered and weighed against any harm to heritage assets. Paragraph 1.2 of the NN NPS also requires the adverse impacts of the development to be weighed against its benefits. Please consider the public benefits of the scheme and give your assessment of the scheme against these parts of the NPS and NPPF.

HBMCE Response

In its assessment of the Scheme, HBMCE is looking only at proposed heritage benefits, and providing a commentary on those. It would be for the Examining Authority to conclude whether there would be public benefits to be considered and weighed against the harm to the heritage assets.

It has always been our concern that the A63 severs Hull from its waterfront, thereby eroding the principal relationship that has defined Hull throughout its history, and thus causing harm to the significance of the place. Our concern has been to establish ways in which this boundary between Hull and its waterfront can be made more permeable, and identify how the Scheme can be modified to help establish a sense of 'place'.

HBMCE actively supported the installation of an architect designed bridge (as opposed to the installation of a standard Highways England engineering bridge solution) over the A63, and we consider that this will go some way to addressing the question of permeability between the centre of Hull and its waterfront, but we consider that much more can be done by Highways England to deliver the potential of the heritage components to create a better sense of place and enhance their significance.

In our Written Reps (and in answer to these specific questions) we have identified that more could be done to improve the landscaping and public realm at the interface of the Scheme and the conservation area. HMBCE considers that paragraphs 5.1.38 of the NN NPS and paragraph 200 of the NPPF calling for applicants to look for opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance have not been taken. Please refer to the issues raised in our Written Reps 6.2.9, 6.3.7 – 6.2.10 and 7.3.1.

At the moment the problem with the Scheme and its supporting information is the lack of clarity around its proposed execution, and therefore a lack of certainty about its impact on heritage assets, its confused and partial mitigation measures and as a consequence the lack of a clear relationship between harm and public benefit.