

A63 Castle Street Improvement, Hull

TR010016

Written Submission of Applicant's case put orally at Compulsory Acquisition Hearing on 7 June 2019



A63 Castle Street Improvement, Hull Development Consent Order 20[xx]

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Compulsory Acquisition Hearing on 7 June 2019**

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CONTENTS

1	Introduction	4
1.1	Purpose of this document.....	4
2	ExA Agenda Item 1 - Welcome, introductions and arrangements for the hearing	4
3	ExA Agenda Item 2 – DCO Provisions	4
4	ExA Agenda Item 3 – Statutory Conditions and General Principles	5
5	ExA Agenda Item 4 – Temporary Possession	5
6	ExA Agenda Item 5 – Public Open Space	6
7	ExA Agenda Item 6 – Crown Land.....	7
8	ExA Agenda Item 7 – Parties affected by provisions in the dDCO	7
9	ExA Agenda Item 8 – Review of Compulsory Acquisition Negotiations and Objections	7

1 Introduction

1.1 Purpose of this document

1.1.1 This document summarises the case put by Highways England (the Applicant), at the Compulsory Acquisition (CA) Hearing which took place at the KCOM Stadium, Hull on 7 June 2019.

1.1.2 In what follows, the Applicant's submissions on the points raised broadly follow the Agenda for the CA Hearing set out in the Examining Authority's (ExA) letter which was published on the Planning Inspectorate's website on 28 May 2019.

1.1.3 The following members of the Applicant's team spoke during this CA Hearing:

- Stephen Whale, Counsel to the Applicant (**SW**)
- Katie Persaud, Associate, BDB Pitmans (**KP**)
- James Leeming, Senior Project Manager, Highways England (**JDL**)
- Matthew Twiss, Design Manager, Balfour Beatty (**MT**)
- Richard Green-Morgan, Construction Manager, Balfour Beatty (**RGM**)
- Steve Brattan, District Valuer (**SB**)

2 ExA Agenda Item 1 - Welcome, introductions and arrangements for the hearing

2.1.1 The ExA welcomed all parties to the hearing and discussed the agenda and format for the day.

2.1.2 The ExA explained the process for recording of the hearings and noted that they would be available on the Planning Inspectorate website for a period of five years post hearing.

3 ExA Agenda Item 2 – DCO Provisions

3.1.1 **KP** spoke Statement of Reasons and explained the relevant Compulsory Acquisition Powers and the Temporary Possession Powers included in the draft DCO.

3.1.2 **KP** advised that she would provide a clarification as to the difference between articles 27 and 28 of the draft DCO. The articles relate to Acquisition of subsoil or airspace only (article 27) and Rights under or over streets (article 28).

3.1.3 Article 27 relates to land where compulsory acquisition powers are sought under article 20. In relation to such land, the Applicant can acquire the subsoil or airspace only, rather than the full extent of the land.

3.1.4 Article 28 (Rights under or over streets) relates to streets within the Order Limits. This article allows the Applicant to appropriate the subsoil or airspace of those street for the purposes of the authorise development.

4 ExA Agenda Item 3 – Statutory Conditions and General Principles

- 4.1.1 **KP** spoke to sections 122(2) and 122(3) of the Planning Act 2008 and confirmed that the Applicant considers that these tests are met and there is a compelling case in the public interest for land to be compulsorily acquired for the scheme. This is set out in the Statement of Reasons at Chapter 5.
- 4.1.2 **KP** confirmed that s. 123(2) of the Planning Act had been complied with and that the request for Compulsory Acquisition was made by virtue of the Applicant submitted the Application.
- 4.1.3 **KP** spoke to the Applicant's consideration of alternatives for the scheme and reasonable alternatives to compulsory acquisition. **KP** explained that an alternative scheme would not have negated the need to exercise compulsory acquisition powers,
- 4.1.4 **KP** spoke to the Application's conformity with the Human Rights Act 1998 as set out in the Statement of Reasons Chapter 6.
- 4.1.5 **KP** confirmed that the Applicant's position on funding has not changed and is set out in the Statement of Reasons at Chapter 5.6.
- 4.1.6 **JDL** explained various land for the compounds have been considered. **HCC** confirmed The Applicant have sought to minimise the need to compulsory acquire land unnecessarily and is confident they have minimised the need for compulsory acquisitions.

5 ExA Agenda Item 4 – Temporary Possession

- 5.1.1 **EPIC** No.2 on behalf Kingston Retail Park (KRP) identified as 3/5e and 3/5b on (APP-006) Highways England; 2.3 Lands Plans; Drwg Nr TR010016/APP/2.3(DA) represents the work area required to make alterations to the KRP car park and to construct the slip road and necessary diversions.
- 5.1.2 **MT** talked through the purpose, extent and duration of the temporary acquisition of the Kingston Retail Park car park. 3/5e (the triangle) is required to reconfigure the car park to better suit Kingston Retail Park and minimise the loss of parking spaces. **MT** 3/5e will not be used as a construction compound, it would be used for the configuration of the KRP car park. As stated in the Environmental Statement, access will be maintained to commercial properties at all time. This includes the Carphone Warehouse and Mothercare units which are within this area.
- 5.1.3 **JDL** further clarified that land reference 3/5e (the triangle) has been included to allow the Applicant to work with KRP to manage the number of spaces taken by the use of 3/5b. The Applicant is keen to mitigate the loss of this area and provide as many spaces as possible.

- 5.1.4 **MT** stated in reply to the implications of restriction details indicating that access must be maintained are held within the Environmental Statement (APP-022 - Highways England 6.1 Environmental Statement) on Page 182, 7.7.7 bullet point 5 which states "Safe access and egress would be maintained to all businesses and residential properties. Emergency routes to be available throughout the Scheme construction programme of works at all times". This is then further identified in the OEMP (APP-072 - Highways England 7.3 Outline Environmental Management Plan (OEMP)) on page 26 within NV1 (CH7) Actions using identical wording.
- 5.1.5 This therefore requires that safe access and egress be maintained throughout the construction programme preventing the construction works from restricting access to the businesses and properties.
- 5.1.6 For the period of occupancy of 3/5e the details within the CL32.KRP programme show a period of 10 weeks for the changes to the Kingston Retail Car Park and 9 weeks for the relocation of the Totem to be completed concurrently. This would be undertaken at a time suitable to KRP.
- 5.1.7 The changes may include changes temporary fencing and site clearance (including electrical site clearance), removal of existing hardstanding, excavation, drainage, sub-base, kerbing, paving (hard landscape and asphalt), road markings, erect temp slip road hoarding. This would be done in continued consultation with KRP. Inspection and hand back would also be undertaken in this period with KRP.
- 5.1.8 In respect to the area 3/5b the time of occupancy would be for approximately 2 years and would involve the construction of the slip roads and working room for services and diversions.

6 ExA Agenda Item 5 – Public Open Space

- 6.1.1 **JDL** noted the replacement public open space proposal and explained how there are very few sites perceived to be adequate to replace public open space. HCC agreed and noted that The Myton Centre is the preferred location for the replacement of public open space. This land is owned by HCC and will be returned to HCC post Scheme. This is replacing land being acquired at Trinity Burial Ground, which is owned by the Diocese.
- 6.1.2 **SW** confirmed that Highways England is proposing to acquire open space land from the Diocese and replace it with land owned by Hull City Council (that will then become within the ownership of Hull City Council). It is proposed to acquire this land compulsory as requested by the Diocese due to the various designations and covenants.
- 6.1.3 **SW** explained that the Applicant understood the implications of s.131 of the Planning Act and was seeking to find a method to provide the replacement land without triggering the Special Parliamentary Procedure set out in the Act.

7 ExA Agenda Item 6 – Crown Land

- 7.1.1 **KP** confirmed that position on Crown Land had not changed since Deadline 2 but that the Applicant was working to obtain the Crown's consent.

8 ExA Agenda Item 7 – Parties affected by provisions in the dDCO

- 8.1.1 Richard Harwood QC (on behalf of EPIC No.2 Ltd) discussed the acquisition (both permanent and temporary) of land at Kingston Retail Park.
- 8.1.2 **SW** responded, and asked **MT** to set out the case for temporary possession, specifically identifying the purpose for the temporary acquisition, the extent of the triangle (*why does The Applicant require a triangle of that size*) and duration (*why is the triangle required for this long*). This is further explored in the temporary possession section.
- 8.1.3 **SW** noted that work number 18 also includes working room for construction and statutory utilities. **SW** suggested amending the dDCO to expand work number 18 to include the description for working room for construction and statutory utilities. This will be updated for Deadline 4.

9 ExA Agenda Item 8 – Review of Compulsory Acquisition Negotiations and Objections

- 9.1.1 **JDL** highlighted the progress of the discussions with other key stakeholders with regards to CA and negotiations. [**Post Hearing Note:** *This has been updated in Annex B of the Statement of Reasons submitted at Deadline 3*]

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