

**COMMENTS ON THE APPLICANT'S  
REVISED DRAFT DEVELOPMENT  
CONSENT ORDER, AND OTHER DEADLINE  
3 SUBMISSIONS**

**DEADLINE 4**

**IP Ref: 20018303**

**A63 Castle Street Improvement Scheme  
HULL  
TR010016**



## Contents

1. Comments on the applicant's dDCO	3
2. Comments on the applicant's response to the Council's LIR	6
3. Comments on the applicant's response to the Council's answers to ExQ1	14
4. Comments on the applicant's updated Flood Emergency and Evacuation Plan Report	17
5. Comments on EPIC No.2 Limited's deadline 3 submission, including proposed changes to dDCO.	17

## **1. Comments on the applicant's latest dDCO (submitted D3)**

### **1.1 Limits of deviation 6.**

The Council supports the removal of the word 'adverse'.

### **1.2 Classification of roads, etc. 11. (4) & (8)**

The Council supports the removal of text relating to weight limitations and parking restrictions.

### **1.3 Schedule 1 – Authorised Development.**

Work No.7 – the Council supports the removal of the reference to option A.

Work No.9 – the Council supports the removal of the reference to option A.

Work No.16 – the Council supports the removal of the reference to option A.

Works No. 21A-D - the Council supports the removal of the construction of the surface water rising main options.

Work No. 30 – the Council queries the introduction of the erection of scaffolding around Castle Buildings.

Works No. 43-45 – the Council supports the removal of the option B related works.

### **1.4 Schedule 2, Part 1 - Requirements.**

#### Construction and handover environmental management plan –

4(c) The Council welcomes the inclusion of no Sunday and Bank Holiday working other where specifically excepted in the wording of the requirement.

#### Landscaping -

5(1) The Council approves of the deletion of text proposed.

Surface and foul water drainage –

8 (1) & (2) The Council understand that the Environment Agency do not wish to be consulted on this particular requirement.

The Council support the removal of the word ‘adverse’.

Fencing and Barriers -

12. The Council have suggested alternative wording for this requirement within its post- issue specific hearings submission at deadline 3.

**1.5 Schedule 3 – Classification of roads, etc.**

PART 2 OTHER ROAD CLASSIFICATIONS -

The Council supports the removal of references to Option A and changes associated with Option B.

PART 3 ROADS SUBJECT TO 30 MILES PER HOUR LIMIT –

The Council supports the removal of changes associated with Option B.

PART 5 ROADS SUBJECT TO WEIGHT RESTRICTIONS -

The Council supports the removal of this part in its entirety.

PART 7 ROADS SUBJECT TO PROHIBITION OF PARKING – NO WAITING OR LOADING AT ANY TIME –

The Council supports the removal of references to Option A and changes associated with Option B.

PART 9 ROADS SUBJECT TO PROHIBITION OF PARKING –RESTRICTED PARKING ZONE EXCEPT IN MARKED BAYS - NO WAITING OR LOADING AT ANY TIME –

The Council supports the removal of this part in its entirety.

PART 9 PRIVATE MEANS OF ACCESS -

The Council supports the removal of changes associated with Option B.

PART 10 PUBLIC RIGHTS OF WAY -

The Council supports the removal of references to Option A and changes associated with Option B.

**1.6 Schedule 4 – Permanent stopping up of streets and private means of access.**

PART 1 STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED -

The Council supports the removal of references to Option A only.

PART 2 STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED -

The Council supports the removal of references to Option A and changes associated with Option B.

**1.7 Schedule 5 – Land in which only new rights may be acquired.**

The Council supports the removal of reference to Option A, changes associated with Option B, and construction use and maintenance of surface water rising main.

**1.8 Schedule 7 – Land in which only new rights may be acquired.**

The Council supports the removal of references to Option A, changes associated with Option B, and changes associated with the construction of surface water rising main.

**1.9 Further changes to the draft Development Consent Order. –**

The Council seeks further changes to the dDCO as set out within this and previous submissions.

## **2. Comments on the applicant's response to the Council's LIR**

### **2.1 The proposed scheme:**

The clarifications set out within section 2.2 of the applicant's response are noted.

### **2.2 Designated Funds**

The Council recognises the value, and is fully supportive of the funding which has been received through the Designated Funds to date, and which has helped to provide environmental, social and economic benefits to the people, communities and businesses who live and work alongside the Strategic Road Network, and particularly in relation to cultural heritage, as referenced in the applicant's submission.

The Council recognises a need for further funding from the Designated Fund pot to enhance the public realm on a number of streets surrounding the SRN, thereby providing an improved pedestrian / cycle environment between the City Centre and its waterfront, to build on public realm works already delivered by the Council at a cost of £28m.

Similarly, the realisation of an enhanced dry dock berth within the Marina, for the relocation of the Spurn Light Ship museum as necessitated by the improvement scheme, thereby delivered an improved visitor experience with uplift in equitable access and interpretation, and a significant reduction in on-going maintenance costs is also dependent on a designated funds bid.

However, the Council understands that the existing Designated Funds programme has been put on hold, and at present, there is no confirmation from the applicant that any further projects are set to be eligible for funding from the current programme. The Council are continuing to progress with Phases 2 (2018/19) and 3 (2019/2020) of its own planned public realm improvement programme at a cost of £1.8m and £1.2m respectively which is identified, in conjunction with the original investment, as the Council's ongoing contribution should the Designated Fund be reopened to accept further submissions into the current programme.

**2.3 Local Impacts – Biodiversity and Nature Conservation:**

The clarifications set out within section 2.9 of the applicant’s response are noted.

**2.4 Local Impacts – Flood Risk, Drainage, and the Water Environment:**

The clarifications set out within section 2.10 of the applicant’s response are noted.

With particular regard to the contents of paragraph 2.10.4 on the Construction Flood Emergency Plan (FEP), the Council as local planning authority and local lead flood authority reiterates its recommendation for the inclusion within the CEMP of consideration of flood water flows during construction period, and their interaction with the construction works during a flood event, via a Flood Water Management Plan, in addition to emergency procedures to protect personnel and materials on site addressed through the proposed FEP.

**2.5 Local Impacts – Economic Growth:**

The clarifications set out within section 2.11 of the applicant’s response are both noted and welcomed.

**2.6 Local Impacts – Social and Community Impacts:**

The clarifications set out within section 2.12 of the applicant’s response are noted.

**2.7 Local Impacts – Traffic and Transport:**

The clarifications set out within section 2.12 of the applicant’s response are noted.

In the context of the applicant’s comments at para. 2.13.3, it should be noted that right turning movements for vehicles from the A63 to both Ferensway and Commercial Road will also be prohibited during the second phase works.

At paragraph 2.13.7 of the applicant’s submission, there is a lack of clarity around the intended provision for pedestrians and cyclists to cross Market Place and Queen Street in an east-west direction. The paragraph could be interpreted as meaning that the Council wishes to see the existing crossings retained in their current form, or

that a crossing facility of any type be retained in these locations at all. The NMU plans as originally submitted, and as revised and submitted, both depict the provision of uncontrolled pedestrian/cyclist crossing facilities. For the avoidance of doubt, the Council considers the provision of pedestrian/cycle crossing facilities in these locations as imperative to highway safety, connectivity, and the facilitation and encouragement of sustainable forms of transport.

The Council also considers that it is essential that the crossings in question are controlled, in order to ensure that the most vulnerable users are protected in an area of potential conflict with motorised traffic, and those with mobility issues or visual impairments in particular, some of whom stand to be disadvantaged by longer travel distances as a consequence of the scheme already, have the confidence to utilise such facilities and avoid yet further inconvenience.

At para. 2.13.8 the applicant references the need for further assessment to 'ensure there are no negative impacts on queuing traffic on the A63 which could create an increased risk of vehicular collision'. The Council consider that the risk of collision with pedestrians and cyclists, the most vulnerable road users, should be weighed into this assessment. The Council will look to review the outcome of such assessment and feed its considered opinion into the currently draft SoCG. Associated changes to Part 10 to Schedule 3 of the dDCO were requested within Annex A to the Council's Deadline 3 submission.

The Council would wish to work collaboratively with Highways England on the further consideration, analysis, and design proposals for the crossings. It is imperative for both organisations to work closely to achieve the optimum solution for users of both the strategic and local highway networks, including and especially the most vulnerable road users.

The Council notes, welcome, and concur with the content of paras. 2.13.10 – 2.13.13 on the Site A Compound and New Access Road. A draft proposal has been prepared by Highways England and is presently being considered by the Council. It is envisaged that an optimum design solution can be achieved which will ensure an appropriate and safe adoptable access, which will require some amendment to the existing on street parking arrangements.

## **2.8 Compliance with Local Plan Policy:**

The Council note and welcome the content of para. 2.14.3 on compound Option B and its implications for compliance with relevant local plan policy.



## 2.9 Suggested Requirements:

### Earl de Grey PH:

The applicant asserts that the suggested requirement for the recording, dismantling, storage, and reconstruction of the grade II listed public house is unnecessary, on the basis that the building needs to be moved to safely accommodate two lanes of eastbound traffic, and to deliver the scheme and mitigate impact upon the local network, whilst pointing out that the Council is accepting of that need.

As set out in the Council's post- issue specific hearings submission at deadline 3, it is argued that such a condition is necessary, even if, as currently described within the submitted dDCO, the building is to be relocated approximately 3 metres to the north of its current position.

The Council understands that the DCO, if approved, negates the need for separate listed building consent for the works specified. The Council, in addition to Historic England (RR-019) , are of the firm view that the detail of precisely how that work is undertaken, in terms of, for example, methodology of how the building is to be dismantled and reconstructed, the nature and extent of historic fabric to be retained, and the specifications of replacement materials to be used otherwise, are all material to the resultant impact upon the significance of the heritage asset, and any determination made in accordance with paragraphs 189-202 of the NPPF and paragraphs 5.128 – 5.142 of the NN NPS.

There appears to be little by way of detail in the submission as to how the Earl de Grey is to be dismantled and reconstructed. Although the submitted Cultural Heritage Assessment and related chapter within the submitted Environmental Statement recognise a 'permanent large significant adverse effect' on the building. Both describe archaeological recording 'prior to and during the dismantling process in line with Historic England guidance', but the documents go on to state that the 'southern façade would be dismantled but the future use of the dismantled building elements has not been finalised at this stage of the Scheme. No additional mitigation has been proposed.' Other than the described archaeological recording to be encompassed within Archaeological Project Design, there is no mention of further mitigation within the submitted Record of Environmental Actions and Commitments.

Within the dDCO, under Work No. 30 at Schedule 1 describing the authorised development, 'partial demolition of Earl de Grey and partially rebuilding approximately 3 metres to the north of the existing position' is the extent of description regarding the works for which listed building consent through the

DCO process is sought. Other than the inclusion of the APD within requirement No.4 on the construction and handover environmental management plan, there is an absence of reference to listed building consent details in any of the requirements set out within Schedule 2.

Requirement No.3 on Detailed Design requires that that design and its subsequent implementation be carried out in accordance with the preliminary scheme design as shown on engineering drawings and sections, unless otherwise agreed with the Secretary of State following consultation with the relevant planning authority. However, those engineering drawings and sections are devoid of any information pertaining to the Earl de Grey. Consequently, it appears to the Council, that there is an absence of opportunity for formal consultation with the local planning authority and national heritage advisory body, and due scrutiny over the detailed impacts on the significance of the listed building, and the adequacy of mitigation by either the local planning authority or Secretary of State. It is for these reasons that the Council consider such a requirement to be necessary, regardless of the ultimate relocation site for the listed building.

Furthermore, the dDCO would give authorisation under Work No.30 to both partial demolition and partial rebuilding of the Earl de Grey, but currently there appears to be no requirement for both elements to be implemented. It is of concern to the Council, therefore, that within Volume 3 appendix 8.3 Table 1.2 to the Environmental Statement, temporary construction impacts on the Earl de Grey are described thus: 'The Earl de Grey would be demolished during works with only permanent construction impacts'.

Those permanent construction impacts are thereafter described within Table 1.5 to the same in the following terms: 'The Earl de Grey public house would be demolished during the works. This would result in the entire loss of the building. This would result in the highest level of impact possible for this heritage asset'. This is then followed at Table 1.8 on permanent operation impacts with the following entry for the Earl de Grey: 'The buildings would be demolished during the Scheme. Operational impacts are therefore not considered.'

Similarly, under volume 3, Figure 9.6 to the Environmental Statement supporting the chapter on landscape and visual impacts, the relocated Earl de Grey is not depicted at all on visuals showing proposed impacts from Viewpoint 7 in either year 1 or year 15 scenarios.

This raises the concern that failure to reconstruct the Earl de Grey would not 'give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement,' as per Requirement No.3 on detailed design, and in the Council's view strongly vindicates its opinion that a specific requirement covering the management of impacts on, and the future of the Earl de Grey is wholly

necessary. Whilst the Council recognises the applicant's stated commitment within written response to ExQ1 1.5.2 (REP2-003), and indeed stated support for the alternative relocation scheme, the Council is of the view that in the interests of conserving and enhancing the historic environment, an appropriate outcome should be positively secured through the DCO.

Para. 2.17.2 of the applicant's response to the LIR also questions the appropriateness of a requirement for the relocation of the Earl de Grey specifically to adjacent land, as advocated by the Council at the Issue Specific hearing on the Historic Environment, (and subsequently within the its Deadline 3 submission). The Council have granted permission for the development referenced in this paragraph, and consider that it represents a much more favourable mitigation option than that proposed by the applicant. As set out in the applicant's assessment of impacts on heritage assets, and referenced above, total loss if the building would represent the greatest possible negative impact to the building's significance, and in accordance with the guidance set out in the NPPF and NN NPS, and Planning Practice Guidance on conserving and enhancing the historic environment harm should be avoided or minimised where possible, and robustly justified otherwise. The Council consider that, not only would the proposed detailed requirement set out in its deadline 3 submission ensure that harm to the significance of the listed building is minimised, but that the relocation on adjacent land suggested would reduce the harm caused by the scheme by delivering optimal available mitigation.

The applicant states in para. 2.17.2 that it supports the relocation scheme, recognises that the secured planning and listed building consent to facilitate the move are in place, and that discussions over agreement with the local developer involved in the relocation scheme are progressing well. The Council, at the issue specific hearing on the Historic Environment and within its Deadline 3 submission, has made reference to precedent whereby a DCO has been approved subject to mitigation secured through agreement between the undertaker and third parties, on land beyond the order limits and subject to separate permission secured from the relevant authority.

Should agreement fail to be reached between the applicant and the private developer, notwithstanding the progress referred to above, then an amendment to the DCO could be sought to reflect the position as at submission and prior to the local planning authority approval of the relocation of the Earl de Grey to the adjacent land outwith the order limits.

Pumping Station:

The Council note the content of para. 2.17.4 on the requested requirement for the pumping station design. Suggested wording for such a requirement was included within the Council's post- issue specific hearings submission at deadline 3.

High Street Underpass Works:

The Council recognises and supports the very positive on-going engagement with its Access Officer, along with other colleagues, and with the Hull Access Improvement Group over equitable access considerations generally, and in the context of the High Street underpass in particular. The Council remain committed to collaborative working on all aspects of the design of the High Street underpass improvements, and it is understood that further information including visualisations of a possible scheme will be presented imminently.

Nevertheless, given the critical importance of this route for connectivity across the A63 at the eastern end of the Old Town, as the only alternative to the existing at-grade crossing between Market Place and Queen Street, and the existing characteristics of the underpass which render it somewhat bleak and uninviting with attendant perceptions of crime, for vulnerable users in particular, who stand to be most disadvantaged by the associated increase in route length, the Council maintains that it is both necessary and appropriate for a requirement for the design details to be submitted to and approved in writing by the Secretary of State following consultation with the local planning authority to be included within the DCO.

This is particularly important in the context of on-going regeneration within the Fruit Market and Digital Quarter, and imminent developments at Blackfriargate and King William House to either side of the route, all stimulating likely increasing demand for pedestrian and cycle movements, for commuters as well as tourists and other leisure visitors, both day and night. Otherwise there would remain a significant risk of pedestrians attempting to cross at grade without the benefit of a signalised crossing in place.

Such a requirement would provide greater assurance, in the absence of detailed design information, of the delivery of a high quality facility, which is clearly legible, coherent, inviting, and minimises the potential for, and fear of crime, functioning and appearing as an extension of the city centre, and reflective of the vision and the objectives of the city centre public realm strategy.

*Design of the Central Barrier:*

The Council would make clear that, notwithstanding the content of paragraph 2.17.8 to the applicant's comments on the LIR, the concerns over the visual impact of the proposed concrete step barrier do not relate solely to impact upon the character and appearance of the Old Town Conservation Area, but also to its potential impact upon the settings of listed and locally listed structures both within and outwith that Conservation Area, and to both the city centre townscape, and built environment generally, as identified within the draft SoCG, responses to ExQ1, and Local Impact Report.

Since the submission of the applicant's response to the Local Impact Report, the workshop scheduled for 27<sup>th</sup> June 2019 has taken place. This occasion proved to be both positive and constructive, enhancing appreciation of both the applicant's priorities and the Council's concerns, and enabling exploration of the strengths and weaknesses of potential solutions as measured against the same.

Further assessment work, exchange of information, and consultation are set to be undertaken as outcomes of that workshop. The Council are committed to working with the applicant with a view to identifying a mutually acceptable solution, but in the current absence of such agreement, maintains that the inclusion a related requirement would be appropriate, given the sensitivity of the surrounding built environment, and the objective to enhance connectivity between the bulk of the city centre to the north of the scheme route, and its waterfront area to the south.

### **3. Comments on the applicant's response to the Council's answers to ExQ1**

#### **3.1 Measures to improve air quality (1.1.2)**

The Council notes the applicant's comments with regard to paras. 5.14-15 of the NN NPS. Question 1.1.2 enquired as to whether there are any measures which could be taken to 'improve air quality and/or mitigate the effects of the scheme, and therefore concerned matters beyond such mitigation.

The Council recognises the constraints of the city centre route corridor with regard to the limited opportunities for extensive planting of vegetation, and notes the reference to AQEG advice on the efficacy of such planting, although recognises that modest beneficial impacts are still beneficial.

#### **3.2 Changes to the dDCO (1.4.1)**

##### *Limits of deviation 6(6):*

The explanation within the limits of deviation technical note appended to the applicant's Issue Specific Hearing Notes on the dDCO is noted, and being considered further by the Council.

##### *Protective work to buildings 18(1):*

The Council appreciates that the applicant's intention is to secure listed building consent for proposed works through the DCO process.

The Council does maintain that, as currently drafted, the supplemental power in question does apply to any building, statutorily listed or otherwise, without any limitation based on materially worse or materially different environmental impacts accruing as a consequence of protective work carried out under that power.

##### *Schedule 4 (Part 3 – Public rights of way to be stopped up and for which a substitute is to be provided):*

The Council consider that the risk of collision with pedestrians and cyclists, the most vulnerable road users, should be weighed into this assessment. The Council will look to review the outcome of such assessment and feed its considered opinion into the currently draft SoCG. Please see paragraph 2.7 above for more detailed comment.

Schedule 3 (Part 4 – Roads subject to 40mph limit):

The Council recognises the need for careful consideration to be given to the precise location of signage, but maintains that the revision is necessary in the interests of the safety of vulnerable pedestrian and cyclist users, and in connection with the suggested revisions to Schedule 4, Part 3 referred to above.

Schedule 3 (Part 5 – Roads subject to Weight Restrictions):

The Council notes and welcomes the future amendments proposed.

Schedule 3 (Part 9 – Roads subject to prohibition of parking – restricted parking zone-except in marked bays-no waiting or loading at any time):

The Council notes and welcomes the future amendments proposed.

Schedule 2 (Part 2 – Procedure for Discharge of Requirements):

Part 4 to the Town and Country Planning (Development Management Procedure) (England) Order 2015 clearly sets out consultation requirements for local planning authorities in recent of planning applications, in terms of information to be provided, response time given, and consideration of responses received. In requesting this revision the Council were simply seeking similar clarity and confirmation around the terms of consultation under Requirements to the DCO.

The applicant's response advises that the LPA can expect to be consulted properly, but in the absence of any definition over the terms of such consultation, interpretation of the word 'properly' leaves significant scope for uncertainty, with potential implications for timeframes and resource.

Article 35 – Felling or lopping of trees and removal of hedgerows:

The Council, at the request of the ExA at the relevant issue specific hearing, has set-out suggested revised wording to Article 35 within its Post Issue Specific Hearing Deadline 3 submission. The Council remains of the view that the powers afforded by the article as currently drafted are excessively broad, particularly with respect to the felling of trees, and consider that existing powers referenced by the applicant at the relevant specific hearing

should be sufficient to ensure that remedial works can be undertaken where a danger to persons using the authorised development is identified.

Schedule 2, Requirement 5- Landscaping:

The Council note and approve of the drafting change set out in the applicant's dDCO submitted at Deadline 3.

Schedule 2, Requirement 6- Contaminated Land and Groundwater:

The Council recognises that the consideration of contaminated land under the Town and Country Planning system and under Part IIA of the Environmental Protection Act 1990 do have different legal contexts.

However, the Council considers that the town and country planning system is the most suitable vehicle for regulating development, rather than Part IIA, which is more a mechanism by which sites not effectively dealt with through the development process would have to be addressed.

Under the former, the scope of receptors is wider, and in requiring the developer to demonstrate that proposed development is safe and suitable for use, a better level of protection is afforded than under Part IIA, for which the strict definition of 'contaminated land' has to be met. Control under planning conditions or requirements also requires the developer to carry out site investigations and risk assessments as necessary, rather than relying on local authorities to serve remediation notices.

### **3.3 Transportation and Traffic.**

Road Safety (1.8.1)

The Council consider that the risk of collision with pedestrians and cyclists, the most vulnerable road users, should be weighed into this assessment. The Council will look to review the outcome of such assessment and feed its considered opinion into the currently draft SoCG. Please see paragraph 2.7 above for more detailed comment.

Pedestrian Underpass (1.8.7)

Please refer to comments on the applicant's response to the LIR under section 2.9 above.



**4. Comments on the applicant's updated Flood Emergency and Evacuation Plan Report**

The document concentrates on scenarios where the flood warning system has been activated, and actions proposed are based on such an eventuality. It does include a section addressing "if no warning issued" scenarios, but this is focussed primarily on tidal flooding events.

The Council advises that reference also be made to surface water flooding and the actions that would take place in response should they be triggered. A Flood Guidance Statement and a Met Office Alert similar to tidal or fluvial scenarios should come into play. The process involved should be very similar to the Level 1 Flood Alert process detailed on page 11 of the plan, although there is likely to be a need to back up the data by using the underpass flood detection technology referenced on page 8 to the document, enabling the situation to be monitored and appropriate action taken.

Destinations for discharging pumped water should be identified in consultation with the Environment Agency, with the Council also included where it is responsible as Harbour Master (i.e. if discharging into Hull Marina) or Council owned land is involved.

The Council have requested that flood proofing measures be included within a suggested requirement covering the design of the pumping station.

**5. Comments on the EPIC No.2 Limited's deadline 3 submission, including proposed changes to dDCO, and SoCG.**

The Council considers that any signage strategy, including as required under any requirement of the DCO should be subject to prior consultation with the Council, given the direct implications for the local highway network and the safety of users.