

## **Highways England's response to the proposed Section 106 Agreement**

The Applicant has considered the draft s.106 agreement that Hull City Council has proposed. However, the Applicant does not consider that this is the appropriate mechanism for relocating the Earl de Grey building under the planning permission. As previously communicated to the examination, the Applicant is willing to enter into an agreement with the Castle Buildings LLP (the Company) to allow for the relocation of the Earl de Grey to the Company's preferred location. The Applicant is in the process of discussing such arrangements with the Company. However, the proposed s.106 agreement goes beyond that and obliges the Applicant to move the Earl de Grey to the location under the planning permission regardless of other circumstances. For example, it does not allow for the Applicant to revert to the position within the draft DCO should the Company go bankrupt or decide not pursue the development.

Furthermore, the s.106 agreement as drafted does not provide any detail on how this should be achieved. Merely that the mitigation works should be carried out pursuant to an agreement to be entered into at some future date. The Applicant cannot proceed with such uncertainty. Any delay in settling such agreement or any difficulties over the terms of such agreement (details of which have not been set out in the s.106 agreement) could lead to significant and unnecessary delays to the Applicant's scheme. This obligation could therefore force the Applicant to agree to proceed on terms which are not in its best interests given its limited negotiating position in such circumstances.

Therefore, as indicated in the examination hearings, the Applicant requires that the position in the draft DCO remains as it is in order to provide the Applicant with a 'back stop' should the planning permission not be implemented and in addition, to allow the Applicant and the Company the proper time to agree and set out the details of an agreement between them.