

A63 Castle Street Improvement, Hull

TR010016

Applicant's comments on requests for additional information from Department for Transport



January 2020

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

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Planning Act 2008 (as amended) and The Infrastructure Planning (Examination Procedure)

Application by Highways England (“the Applicant”) for an Order Granting Development Consent for the A63 Castle Street Improvement – Hull.

Request for comments from the Applicant, Affected Persons (Question 3), EPIC (No 2) Ltd (Question 6), Hull City Council (Question 7 & 8), Historic England (Question 8)

Application by Highways England for an Order Granting Development Consent for the A63 Castle Street Improvement Scheme

1. Earl de Grey Pub

Request for further information	Response to request
<p>Is the Applicant able to provide further details regarding the relocation of the Earl de Grey Public House including details of the reconstruction or partial reconstruction of the building and the method statement as would be required under Requirement 14(1) in Schedule 2 to the draft DCO should it be made? If so, please provide them.</p>	<p>An agreement is still being discussed with Castle Building LLP. Heads of terms have been agreed, compensation agreed and a legal agreement has been drafted, and is at an advanced stage.</p> <p>The Applicant is still committed to entering into a legal agreement with Castle Building LLP in order to help facilitate the redevelopment of the Earl de Grey building and bring it back into use.</p> <p>The Applicant will produce a method statement to discharge Requirement 14(1) should work to the building be completed as part of the scheme and not carried out by Castle Building LLP.</p>

Request for further information	Response to request
	The Applicant and Castle Building LLP are sharing information and documents related to the construction works for both scenarios to enable a method statement to be produced.

2. Central Reserve Barrier

Request for further information	Response to request
<p>Is the Applicant able to provide further details and specifications regarding the central reserve vehicle restraint system of the type that would be required by Requirement 12(3). If so, please provide them.</p>	<p>The Applicant is currently progressing the design of the Concrete Central Reserve Barrier (CCRB) in line with the recommendations made in the Review of Central Reservation Barrier Options report submitted as part of the Deadline 6 submission (See REP6-014).</p> <p>Several different standard CCRB's are being investigated by the Applicant, liaising with different approved CCRB suppliers, ensuring that the proposal adheres and considers the following:</p> <ul style="list-style-type: none"> • Highways England standards and requirements (Design Manual for Roads and Bridges TD 19/06 - <i>Requirement For Road Restraint Systems</i>, see TD 19/06 Link; • The required British Standards (BS EN 1317) for Road Restraint Systems; • The impact on safety for users and the Area maintenance contractors; • Aesthetic implications for the scheme, especially focussing on the conservation area highlighted by Hull City Council;

A63 (Castle Street Improvement, Hull)

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	<ul style="list-style-type: none"> • Construction methods and the impact on construction programme; • Maintenance requirements <p>The detailed design is currently ongoing and likely to be completed by winter 2020.</p> <p>It is worth noting that there is a major maintenance scheme planned on the A63 between the Humber Bridge and the A63 Castle Street scheme which will include a CCRB system, therefore there is some form of continuity on the network.</p>

3. Compulsory Acquisition and Related Matters

Request for further information	Response to request
<p>Can the Applicant provide an update on the status of negotiations with all Affected Persons (APs) where compulsory acquisition (CA) is proposed? This should be in the form of an updated Annex B to the Statement of Reasons provided with the Rule 17 Letter and it must include reference to APs whose land is subject to the acquisition of rights. In each case where the status of negotiations remains "Not applicable" or "Agreement not sought" the applicant is asked to provide a reason in the table. If APs have any comments can they please set these out.</p>	<p>The Statement of Reasons, Annex B, has been updated to note the progress of discussions with Affected Persons and is attached to this submission</p>

4. Trinity Burial Ground and Special Parliamentary Procedure (SPP)

Request for further information	Response to request
<p>The Rule 17 Letter says, in relation to Trinity Burial Ground and Special Parliamentary Procedure (SPP), that the applicant wished to submit a further draft DCO prior to the end of the examination which will reflect the removal of compulsory purchase powers relating to the open space plots contained in the application. It said that this was being done to avoid SPP and that the applicant was in the process of completing an agreement with the landowner to acquire the land voluntarily. The Land Plans that were sent with the Rule 17 letter show that plot 3/9a has been removed from the scope of the Order, but plots 3/1bd and 3/1be and other smaller plots remain within the order limits and they are also shown on the revised Special Category Land Plan as being “special category land – open space to be permanently acquired”, and the Book of Reference also reflects that.</p> <p>Could the Applicant:</p> <ul style="list-style-type: none"> confirm that the plots mentioned above and which are shown as being special category land are open spaces which fall within section 131 of the Planning Act 2018? confirm that those plots remain subject to compulsory acquisition under the DCO and if so, explain why it has sought to remove article 34 from the draft DCO (and the relevant paragraphs in the preamble to the DCO relating 	<p>There are plots of land within the order limits that are open space land and remain subject to compulsory acquisition under the DCO. Article 34 (and the relevant paragraphs in the preamble) were removed in error under a misunderstanding that all open space plots were being removed.</p> <p>Article 34 and the paragraphs in the preamble have been reinstated in the DCO and a revised version of the DCO is included with these responses. These are the only changes to the draft DCO and as no parties made any representations about the inclusion of article 34 in the DCO previously, we trust that it is not controversial. The inclusion of this article will therefore secure the replacement land under s.131(4)(b) of the Planning Act 2008.</p> <p>We can therefore confirm that the relevant plots that are open spaces for the purposes of s.131 and s. 132 of the Planning Act 2008 are: 3/1zb, 3/1ai, 3/1ag, 3/1af, 3/1zd, 3/1zc, 3/1zg, 3/1zf, 3/1zi, 3/1k, 3/1l, 3/1n, 3/1be, 3/1bd and 3/1zk.</p> <p>The applicant is relying on subsections 131(4) and 132(4) in relation to the acquisition of these plots of open space land. All of the open space plots are owned by Hull City Council. The replacement land is to be vested in Hull City Council under s.131(4) and s.132(4) of the Planning Act 2008, thereby avoiding the need for Special Parliamentary Procedure.</p>

Request for further information	Response to request
<p>to sections 131 and 132 of the Planning Act 2008) in its rule 17 response?</p> <ul style="list-style-type: none"> confirm which subsections in sections 131 and 132 (if any) is the applicant relying on in relation to the acquisition of open space land (and rights over such land), to avoid SPP? explain, in the absence of powers to acquire the proposed replacement land compulsorily, how would that replacement land be secured in a way that would meet the requirements of section 131(4)(b), assuming that subsection is relied on? explain why plots 3/1bv and 3/1by are not included as special category land? If they were special category land, how would the applicant justify avoiding SPP? <p>If the Applicant is of the view that SPP does apply to the Order in the form appended to the Rule 17 letter, the Applicant is asked to confirm so, which would avoid responses being required to the questions in the first four bullets above.</p>	<p>In relation to plots 3/1bv and 3/1by, these were considered by the Applicant when reviewing the Order Land in relation to special category land, but were not considered to be open space. These plots are not designated open space plots in Hull City Council's Local Plan and it is considered that the plots were described as 'amenity' land in the Book of Reference in error. However, even if these plots were to be considered open space, they are also owned by Hull City Council and would therefore be included with the other plots listed above and the Applicant would rely on s.131(4) and s.132(4) in relation to their acquisition.</p>

5. Crown Land

Request for further information	Response to request
<p>Can the Applicant confirm that plot 5/10a is the only Crown Land subject to CA and that the Book of Reference, Crown Land Plans and Statement of Reasons will be amended accordingly. Has the Applicant obtained consent from the Ministry of Justice under section 135 of the Planning Act 2008 in relation to plot 5/10a?</p>	<p>The Applicant is proactively engaged with the Secretary of State for Housing Communities and Local Government, who hold a leasehold interest of the land in plot 5/10a (and other land) on behalf of Her Majesty's Court and Tribunal Service ('SoS') and with the freeholder with regard to a proposed Licence for Works comprising works for the Scheme over plot 5/10a.</p> <p>The SoS has agreed to give its consent to Article 44 of the dDCO and also its consent to s135(2) of the Planning Act 2008 which is conditional upon a Licence for the Works to be entered into by these parties and executed as a deed and further subject to any consent from the freeholder required pursuant to the existing lease with the SoS. The consent is being signed by the SoS.</p> <p>With regard to the temporary possession of plot 5/10a which relates to the proposed Licence for Works there is no other Crown Land subject to CA. The Applicant does not believe that there is any Bon Vancantia land but is checking the position with regard to unit 1B Kingston Retail Park with Epic (No.2)'s solicitors.</p> <p>The Book of Reference, the Crown Land Plans and the Statement of Reasons are being amended and will following as soon as possible after the responses for the request for information.</p>

6. Epic No.2 Ltd

Request for further information	Response to request
<p>Can the Applicant and EPIC (No2) Ltd provide an update on negotiations and whether an agreement has been signed regarding compulsory acquisition and temporary possession of land in relation to Kingston Retail Park.</p>	<p>The solicitors for EPIC (No.2) Ltd. have approved the draft agreement and the Applicant's solicitor is now preparing engrossments to be issued to the Applicant for signing and sealing with its various annexures. This agreement is at an advanced stage. The Applicant and Epic (No.2) Limited are to agree third party costs and break-downs/narratives have been requested to enable the Applicant to assess the third party costs.</p>

7. Draft Development Consent Order (DCO) – Requirement 15

Request for further information	Response to request
<p>The Secretary of State seeks the view of the Applicant and Hull City Council for an amendment to Schedule 2, Requirement 15 (Replacement Green Space) for inclusion in any DCO that might be granted in due course and that it should read:</p> <p>No works or other actions resulting in the loss of any part of the existing open space at the Trinity Burial Ground are to commence until:</p>	<p>The Applicant has reviewed this suggested amendment to the Requirement.</p> <p>The Applicant's works programme is such that the works in Trinity Burial Ground are planned to commence shortly after decision. Therefore focus would be on discharging any relevant Requirements in this area as soon as possible after decision. This is to ensure this part of the works are completed early to accommodate the temporary road layout on the south eastern side of the A63. This has been agreed with the Diocese and Hull City Council are aware this is the current</p>

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<p>(a) details of the design of the replacement green space set out in Schedule 1, Work No.13 including hard and soft landscaping;</p> <p>(b) details of the phasing of the works; and</p> <p>(c) the method for and timing of the handover of the space to the local authority,</p> <p>have been submitted to and approved by the Secretary of State, following consultation with the relevant planning authority on matters related to its function.</p> <p>The works shall be carried out and the open space handed over to the local authority in accordance with the approved details.</p>	<p>works strategy. This works phasing has always been communicated to members of the public in consultation events.</p> <p>In terms of the replacement open space, engagement with Hull City Council has been productive; public information and consultation events have been held to help shape the design. The Applicant is presently designing the replacement open space in collaborating with Hull City Council officers, with a view to completing this before Autumn 2020.</p> <p>The suggested change to the Requirement wording may create programming issues as there is some uncertainty on the definition of loss. Reading the suggestion, this may prevent the Applicant entering Trinity Burial Ground until the detailed design has been completed.</p> <p>Therefore The Applicant would prefer the previous iteration of the wording in the Draft Development Consent Order.</p>

8. Draft Development Consent Order (DCO) – Requirement 16

Request for further information	Response to request
<p>The Secretary of State seeks the view of the Applicant, Hull City Council and Historic England for an amendment to Schedule 2, Requirement 16 (Beverly Gate Scheduled Monument) for inclusion in any DCO that might be granted in due course and that it should read:</p> <p>16.— (1) No works affecting the Beverly Gate Scheduled Monument may commence until a methodology and appropriate archaeological strategy for such works has been agreed with Historic England.</p> <p>(2) All such works must be carried out in accordance with the agreed methodology and appropriate archaeological strategy.</p> <p>(3) In this paragraph “works” has the meaning given in section 2(2) of the Ancient Monuments and Archaeological Areas Act 1979.</p>	<p>The Applicant has no initial concern with this amendment. Following detailed discussions with the contractors, and statutory undertakers providing works in this area, it is unlikely that that Scheduled Monument will be affected by any works</p> <p>The Applicant will take all necessary precautions to not interfere with the Scheduled Monument.</p>