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Our Ref
ADW/151216.0004
Date
16 June 2020

Ms Anderson

**A63 Castle Street Improvement - Hull Development Consent Order
Application for Correction Order**

On behalf of our client Highways England this is an application under paragraph 1(5)(a) of Schedule 4 to the Planning Act 2008 to request that the Secretary of State correct a small number of errors in the order that was made on 28 May 2020 (SI 2020/556).

The requested corrections and the reasons for making them are set out in the attached table and the text below it.

Yours sincerely

[Redacted signature]

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Reference	Requested correction	Reason
Article 2(1) – definition of ‘commence’	Reinstatement of the words ‘or installation of a site compound’ after ‘advertisements’	See paragraphs 0 to 2 below
Article 2(1) – definition of ‘trunk road’	Insert ‘or’ at the end of paragraph (a).	This is a grammatical correction
Article 9(3)	For ‘(directions as to timing)’ substitute ‘(power to give directions as to timing of street works)’ For ‘(restrictions following substantial road works)’ substitute ‘(restriction on works following substantial road works)’ For ‘section 73C (materials, workmanship and standard of re-surfacing)’ substitute ‘section 71 (materials, workmanship and standard of reinstatement)’	These are corrections to the descriptions of sections.
Article 18(7)	Removal of this paragraph (and renumber)	See paragraphs 3 to 5 below
Article 35(2)	Change of ‘undertake’ to ‘undertaker’ in the first line	This is a typographical error
Article 35(2)(b)	Change of ‘nvironmental’ to ‘environmental’	This is a typographical error
Schedule 2 paragraph 17	Remove ‘(g) public art;’ (and renumber)	See paragraphs 6 to 7 below

Site compound

1. The Examining Authority refers to the text about a site compound in the table on pages 170-172 of the [Recommendation Report](#). The reason given for removing the installation of a site compound from the list of pre-commencement activities is the commitment in the [Register of Environmental Actions and Commitments](#) to maintain an area of habitat undisturbed in the corner of each compound (commitment E4) that would only arise once the Construction Environmental Management Plan (CEMP) for the part of the project containing the compound had been approved.

2. However the removal of those words has no effect on compliance with the commitment since if Highways England had not reserved such an area by the time the CEMP was approved, it would be in breach of commitment and hence the DCO (requirement 4(3)), and would be committing a criminal offence. In other words it must adhere to the commitment whether or not the CEMP has been approved because it must be adhered to once it has been approved.

Protective works to listed buildings

3. The ExA refers to protective works to listed buildings in the table on pages 172-173 of the Recommendation Report. The inserted article 18(7) is redundant because it is section 33(1)(i) that excludes listed building consent from being needed in a DCO rather than the DCO itself and so there is nothing in the order that provides that listed building consent does not apply.
4. Secondly, even had the provision been effective, a DCO should not add back in a provision that its parent Act excludes from its scope.
5. Finally, the additional administrative burden arising from this provision is likely to discourage the contractors from attempting to protect listed buildings affected by the project and so they will be at greater risk of damage, meaning the provision, had it had any effect, would have had the opposite effect to its intention.

Public art

6. The ExA refers to public art in the table on pages 185-187 of the Recommendation Report. Not only is public art not something that would make an underpass 'satisfactory and safe', the reasons given for its inclusion, but it is beyond Highways England's legal remit to be responsible for public art. Highways England's powers are set by the Infrastructure Act 2015; by section 3(3) of that Act it must seek to achieve the objectives set by the government in the Roads Investment Strategy. The current strategy, [Roads Investment Strategy 2](#), refers to the objectives in a link to a [government objectives](#) document in a footnote on page 4.
7. These are stated to be: a network that supports the economy, a safer and more reliable network, a greener network, a more integrated network and a smarter network. While Highways England recognise that CCTV, the other item added to this requirement, would go towards fulfilling the objective of a safer network, public art would not contribute to any of the objectives and is therefore beyond the legal powers of Highways England to deliver.