

CORRECTION NOTICE

A63 CASTLE STREET IMPROVEMENT HULL DEVELOPMENT CONSENT ORDER 2020 (S.I. 2020 No. 556)

SCHEDULE 4 TO THE PLANNING ACT 2008 CORRECTION OF ERRORS IN DEVELOPMENT CONSENT DECISIONS

28 October 2020

The Secretary of State received a request dated 16 June 2020 from BDB Pitmans, solicitors acting on behalf of Highways England (“the Applicant”) for the correction of errors and omissions in the A63 Castle Street Improvement – Hull Development Consent Order 2020 (“the Order”), under paragraph 1(5)(a) of Schedule 4 to the Planning Act 2008.

The Secretary of State has made the following corrections to the Order:

Corrections to the Articles

Article 2 (interpretation)

In paragraph (1), in the definition of “commence” after “advertisements” insert “or installation of a site compound”.

Secretary of State’s rationale: - to provide clarity on the definition.

In paragraph (1), in the definition of “trunk road” at the end of paragraph (a) insert “or”.

Secretary of State’s rationale: - to correct a grammatical error.

Article 9(3) (application of the New Roads and Street Works Act 1991)

For “(directions as to timing)” substitute “(power to give directions as to timing of street works)”.

For “(restrictions following substantial road works)” substitute “(restrictions on works following substantial road works)”.

Secretary of State’s rationale: - to provide clarity.

Article 18(7) (protective works to buildings)

Omit article 18(7), which said:

“(7) Where the proposed protective works would, but for the provisions of this Order, require consent under section 8 (authorisation of works: listed building consent) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (other than in respect of the buildings identified in Work No.30 of Schedule 1), the undertaker may not serve a notice under paragraph (5(a)) until a description of the proposed protective works has been submitted to and approved in writing by the Secretary of State following consultation with—

(a) the relevant planning authority; and

(b) Historic England (if Historic England would have been required to be notified of the application for consent under section 8 by a direction given under section 15(5) of that Act).”

Secretary of State’s rationale: This paragraph is not required because section 33(1)(i) of the Planning Act 2008 removes any requirement for listed building consent to be obtained in relation to development authorised by a DCO.

Article 35(2) (felling or lopping of trees and removal of hedgerows)

For “undertake” substitute “undertaker”.

Secretary of State’s rationale: To correct a typographical error.

Article 35(2)(b)

For “nvironmental” substitute “environmental”.

Secretary of State’s rationale: To correct a typographical error.

Corrections to the Schedules

Schedule 2 Paragraph 17(1) (requirements: high street underpass works)

At the end of paragraph (g) insert “which for the avoidance of doubt shall not include the use of paint on any highway structures and shall not be visible to drivers on the A63”.

Secretary of State’s rationale: The Secretary of State agreed with the ExA’s recommendation for a new requirement in relation to the High Street underpass which would secure the provision of both lighting and CCTV. However, he did not specifically refer to the subject of public art in his decision letter. He agrees that the requirement for the provision of public art should exclude the use of paint on any highway structures for the reasons set out in the applicant’s request and that any public art installed should not be visible to drivers on the A63 as this could cause a safety issue as it could potentially distract drivers.

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118(4) of the Planning Act 2008, a decision under paragraph 1 of Schedule 4 to correct an error in an Order granting development consent can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order making the correction is published. The A63 Castle Street Improvement Hull (Correction) Order 2020 (as made) is being published on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/yorkshire-and-the-humber/a63-castle-street-improvement-hull/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Correction Order referred to in this notice is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).