

Meeting note

Project name	A63 Castle Street
File reference	TR010016
Status	Final
Author	The Planning Inspectorate
Date	1 August 2018
Meeting with	Highways England
Venue	Teleconference
Meeting objectives	Project Update Meeting
Circulation	All attendees

Summary of key points discussed and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

Draft Documents

The Applicant noted the feedback received from the Inspectorate in regards of the draft documents.

The Applicant clarified the position regarding the two proposed construction compounds identified in the submitted draft documents. The preferred option is Option A and the fall-back position is Option B. The Applicant confirmed that both Options A and B will be assessed in the Environmental Statement. The Applicant explained the intention that the made Development Consent Order (DCO) would only contain one construction compound.

The Applicant explained the approach to populating Schedule 11 of the draft DCO in respect of progressing a Deemed Marine Licence separately from the DCO submission. The Applicant confirmed that if a Habitats Regulations Assessment report was required with the DCO application (dependant on progress with Princess Quay Bridge) that it would reflect the recent European Court of Justice People over Wind judgement. The Inspectorate advised the Applicant that both screening and integrity matrices should be submitted in the event that mitigation will be required to avoid effects on European sites.

Programme Update

The Applicant intends to submit the application in Q3 2018.

Next steps

The following was agreed:

- A further meeting will be scheduled for late August to discuss pre-submission arrangements
- The Inspectorate will advise the Applicant what information is required to update the project page on the National Infrastructure Planning website
- The Applicant will provide the Inspectorate with information detailing the two proposed options (which was missing from the draft documents)

A63 Castle Street Improvement: Comments on draft documents, July 2018

These queries relate solely to matters raised by the draft documents, and not the merits of the proposal. They are limited by the time available for consideration, and raised without prejudice to the acceptance or otherwise of the eventual application. They are provided to assist the preparation of the next iteration.

Draft Land Plans

Q No .	Section	Extract from Document	Question/Comment
1	General	<i>The use of insets</i>	There are a large number of insets, but they appear clearly and easy to understand.
2	General	<i>The presentation of options</i>	It is clear that two options are being presented, however (particularly on Sheet 3) it is not clear if plot numbers are being duplicated across options; it appears that each plot number is correctly unique. However, some areas of land will appear in two plots as a result.
3	Key Plan	<i>The illustration of the areas covered by sheets</i>	At present, the areas covered by sheets are not shown on the Key Plan itself, but rather on a 'schematic inset'. This is not clear.
4	General		There are several plots that do not appear to be shown, or where the description in the book of reference does not correspond to the plot shown on the land plans. This is presumably a result of the draft nature of the plans and will be corrected prior to submission.

Draft Works Plans

Q No .	Section	Extract from Document	Question/Comment
1	Sheet 2	<i>Work No 4</i>	The red line appears to be missing.
2	Sheet 5	<i>Green hatched area, beneath work number 26</i>	There appears to be an unnumbered work.
3	Sheet 3	<i>Work 48</i>	This work appears to extend outside the DCO limits.
4	Sheet 3	<i>Kingston Retail Park</i>	The DCO limits are different between options A and B. Is this intended?

5	Sheet 5	Work No 32	Overlaying of the green works area obscures the red line boundary.
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Draft Scheme Description

Q No.	Section	Extract from Document	Question/Comment
1	Sheet 5	2.6.77	This is the only reference to the options being presented on the works plans. The differences between the two options appear more substantial than this.

Draft DCO

Q No.	Section	Extract from Document	Question/Comment
1.	General	<i>Compliance with the SI template</i>	The SI template will need to be complied with for the submitted version. There are currently a number of issues, particularly with the indentation of text. The headings in Schedule 2 are also not in the usual format.
2.	General	<i>Use of "shall"</i>	The Office of the Parliamentary Counsel Drafting Guidance document advises against the use of "shall" (see para 1.2.9). The current draft uses "shall" in numerous locations. These should be reworded as per the guidance.
3.	General		Unpopulated Schedules very unhelpful in allowing us to provide comments.
4.	A2	<i>Definition of "commence" "other than operations consisting of archaeological investigations, environmental surveys and monitoring, investigations for the purpose of assessing ground conditions,</i>	How are these exclusions from the statutory definition of commencement justified? Works such as the diversion and laying of services could have impacts on archaeological sites or have ecological impacts, but can all be carried out before any scheme to manage those impacts has been agreed.

		<i>remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, receipt and erection of construction plant and equipment, erection of any temporary means of enclosure, the temporary display of site notices or advertisements or installation of a site compound or any other temporary building or structure”</i>	
5.	A2	<i>Definition of "maintain"</i>	Have these activities been assessed in the ES? Should the maintenance power be limited to activities assessed in the ES?
6.	A2	"HCC"	Is inclusion of an abbreviation appropriate?
7.	A2	<i>Secretary of State</i>	DfT has expressly asked for <i>Secretary of State</i> to not be defined, and is reflected in Advice Note. Can this be usefully covered in the Explanatory Memorandum.
8.	A6	<i>Limits of deviation</i>	The limits of vertical deviation have changed significantly since earlier drafts, and appear less than other highways schemes might typically request. Given the nature of the various Works, has a more differentiated approach to Limits of Deviation been considered for, e.g. bridge elements. To note in the made M20 Junction 10a DCO, reference has been made to the role of the local highway authority.
9.	A9		" <i>the 1991 Act</i> " has been defined, so no need to use long hand in heading ie use " <i>Application of the 1991 Act</i> "
10.	A9	<i>Application of the 1991 Act</i>	Whilst the modifications may reflect other highways DCOs they may not reflect all, for example M20 Junction 10a. Explanatory Memorandum still needs to clearly explain and justify 'precedents'.
11.	A10	<i>Construction and</i>	A12(1) of the M4 J3-12 DCO includes wording to

		<i>maintenance of new, altered or diverted streets and other structures</i>	make it clear that the maintenance responsibility in paragraph (1) is subject to the exception paragraph (3) for bridges. Should similar wording be included here?
12.	A11	<i>Classification of roads etc.</i>	There is some repetition in paras (4) to 6) relating to speed limits. This could be avoided by using the approach set out in A13(6) of the M20 DCO. Would this approach be suitable here?
13.	A16(1)	<i>Traffic regulation</i> <i>"If the traffic authority fails to notify the undertaker of its decision within 28 days"</i>	A43(11) of the M4 DCO requires the traffic authority to have received the application before a deemed approval can apply, in line with (for example) the approach used in A17(9) of this order for the discharge of water. Should this not also be the case here?
14.	Circa		
15.	A25	<i>Application of Part 1 of the Compulsory Purchase Act 1965</i>	A25(1)(a) should be reformatted as A25(2) and the remaining paragraphs renumbered accordingly. See A27 of the M20 DCO.
16.	A29	<i>Temporary use of land for carrying out the authorised development</i>	A29(1) should be subject to the time limits in A22(2). See A31 of the M20 DCO.
17.	A29(7)	<i>Temporary use of land for carrying out the authorised development</i> <i>(7) Any dispute as to the satisfactory removal of temporary works and restoration of land under paragraph (4) does not prevent the undertaker giving up possession of the land.</i>	This wording is not present in either A31 of the M20 DCO or A28 of the M4 DCO. How can it be justified here?
18.	A29	<i>Temporary use of land for carrying out the authorised development</i>	Should this article make it clear that "Paragraph 1(a)(ii)does not authorise the undertaker to take temporary possession of any land which the undertaker is not authorised to acquire under article

			20 (compulsory acquisition of land) or article 24 (compulsory acquisition of rights and restrictive covenants)"? This approach was taken in both A31 of the M20 DCO and A28 of the M4 DCO
19.	A35	<i>Felling or lopping of trees and removal of hedgerows</i>	AN15 asks for affected hedgerows to be identified in a Schedule. Why not in this case? If a general power is sought, has this been agreed with the local authority? [To note swapping in Explanatory Memorandum for A34 and A35.]
20.	A42	<i>Deemed Marine Licence</i>	Schedule 11 is empty.
21.	Requir	<i>Requirements in general</i>	The requirements are less detailed than those in recent highways DCOs. It may be useful to consider whether recently adopted wording should be used.
22.	R1	<i>Definition of "European protected species"</i> <i>...Conservation of Habitats and Species Regulations 2010...</i>	Should this refer to the 2017 Regulations?
23.	R2	<i>Time limits</i> <i>The authorised development must commence no later than the expiration of 5 years beginning with the date that this Order comes into force.</i>	The standard wording is "The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force." Should this be used here?
24.	R2		Unusual formatting of headings again. Is this compatible with new SI template?
25.	R3	<i>Detailed design</i>	Similar comment to A6 above re: highways authority.
26.	R4(2)	<i>Construction and handover ...</i>	Should ISO14001 be defined?
27.	R4(4)	<i>Construction and handover ...</i>	Will a draft HEMP be appended to the Outline CEMP?
28.	R6(2)	<i>Contaminated land and</i>	<i>"Where the undertaker determines that remediation</i>

		<i>groundwater</i>	<i>of the contaminated land is necessary..." – is such a unilateral decision appropriate? The same wording has been drafted out through previous highways examinations.</i>
29.	R8	<i>Surface and foul water drainage</i>	Should Environment Agency be a consultee?
30.	R10	<i>Traffic management</i>	Similar comment to A6 above re: highways authority.
31.	Sch 6	<i>Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants</i>	The wording used here does not reflect the most recent highways DCOs.
32.	Sch 9	<i>Protective provisions</i>	Unclear the status of these and whether they are agreed or unilateral.
33.		<i>Implementation of the "option"</i>	There appears no mechanism in the DCO to determine or implement the "option" in respect of the respective Works and relevant compulsory acquisition powers.

Draft Consultation Report (CR)

Q No.	Paragraph / Section	Extract from Document	Comment/Question
1.	General		The Report structure is clear and logical.
2.	Glossary		<p>The Applicant should ensure that the Glossary captures the full set of matters described within the Consultation Report, e.g. it is noted that KRP has not been included.</p> <p>Although the Glossary is helpful it could be useful if the CR described the abbreviation in full the first time within the CR.</p>
3.	Glossary / General		'The Planning Inspectorate' or 'the Inspectorate' is preferred to the abbreviation 'PINS'.
4.	Annex Contents		<p>The Applicant should ensure that all Annexes listed are present on submission.</p> <p>The Applicant should also ensure that all included</p>

			Annexes are referenced in the Annex Contents table.
5.	2.2.1	"x2008"	Typographical error.
6.	3.5.2 – Table 10	(3:00 – 20:00)	Either 12hour or 24hour clock should be used.
7.	3.5.6	"greed"	Typographical error – should be "green".
8.	3.7.25	"Jan and Feb 2017"	Suggest that the months be typed in full.
9.	3.7.38	"HE"	This abbreviation should not be used to avoid confusion between Historic England and Highways England.
10.	4.3.33		First sentence is confusing – consider rewording.
11.	4.5.9	"8"	Typographical error? Applicant to check - we believe it should be "4".
12.	4.6.2	"issued"	Typographical error – should be "issues". The Applicant may wish to consider rewording this sentence to avoid the use of a double negative.
13.	Table 18	Para 26 " <i>the Planning Act and Regulations 11</i> "	The number 11 refers to a footnote in the Guidance. The Applicant should note the Regulations in full, for the first use.

Draft Statement of Reasons

Q No.	Section	Extract from Document	Question/Comment
1	7.5	'other arrangements'	This section will need to be completed to present the alternative options that are sought within the application
2	Annex A and B	<i>The annexes</i>	This structure seems appropriate, but will obviously need to be completed prior to submission.

Draft Book of Reference

Q No.	Section	Extract from Document	Question/Comment
1	General	'address as at...'	Please make sure that all cross-references are correct prior to submission.

2	General	The guidance ("Planning Act 2008 Guidance related to procedures for the compulsory acquisition of land", Annex D, in particular paragraphs 9 and 10) suggests that sections of the BoR should cross-refer to the relevant articles in the Draft DCO. This has not been done here. Whilst the Applicant might not consider it feasible to amend the tables themselves, some additional explanatory text might be useful.
3	General	The plots are identified using numbers and letters, including a plot 2/1l. As set out in advice note 15, para 10.3, "In the font mandated by the template for SIs, the character for the numeral "one" and the lower case equivalent of the letter "L" are indistinguishable from one another visually. When determining a numbering/ lettering scheme (for example, for individual land plots) which also needs to be referred to in the DCO, applicants should use a scheme that does not run the risk of ambiguity between these two characters."