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## Published only

Your Ref:

Our Ref: TR010020

Date: 9 January 2018

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Dear Sir/ Madam

### **Planning Act 2008 – Sections 91 to 94, 97 and the Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 14**

### **Application by Highways England for an Order Granting Development Consent for the A19/A184 Testos Junction Improvement Project**

#### **Agendas for Hearings: 16 to 19 January 2018**

Further to Annex D to my letter of 22 November 2018 (the Rule 8 Letter) notifying you of the times, dates and location of the hearings associated with the examination of this application due to be held between 16 and 19 January 2018, I am now writing to provide agendas for these hearings.

- **Annex A** to this letter is the agenda for the **Open Floor Hearing (OFH)** to be held at the Quality Hotel Boldon from 6.00pm on Tuesday 16 January 2018.
- **Annex B** to this letter is the agenda for **Issue Specific Hearing 2 (ISH2)** into the interrelationship of major proposals in the area, environmental and landscape/visual impact assessment issues, to be held at the Royal Station Hotel, Newcastle upon Tyne from 10.00am on Wednesday 17 January 2018.
- **Annex C** to this letter is the agenda for the **Compulsory Acquisition Hearing 1 (CAH1)** to be held at the Royal Station Hotel, Newcastle upon Tyne from 10.00am on Thursday 18 January 2018.
- **Annex D** to this letter is the agenda for **Issue Specific Hearing 3 (ISH3)** into the draft Development Consent Order (dDCO) to be held at the Royal Station Hotel, Newcastle upon Tyne from 10.00am on Friday 19 January 2018.

The Applicant has been invited to attend all of the hearings. The individual hearing agendas identify the Interested Parties (IPs) that I have invited to attend the hearings. Other IPs who wish to be heard on the subject matters set out in an agenda for ISH2 or ISH3 may also participate in those hearings. IPs who wish to speak on

subject matters not on the agenda for ISH2 or ISH3 should attend and participate in the OFH, where they are entitled to raise any important and relevant matter. Participation in the CAH1 is limited to the Applicant and to those persons who are affected by proposals for the Compulsory Acquisition (CA) or Temporary Possession (TP) of land or rights over land (referred to as Affected Persons (APs)).

Any IPs that wish to participate in a hearing should notify the Planning Inspectorate indicating the issues that they wish to speak about no later than midday on 12 January 2018:

- by email to: [A19TestosJunction@pins.gsi.gov.uk](mailto:A19TestosJunction@pins.gsi.gov.uk); or
- by phone to: 0303 444 5000.

Planning Inspectorate staff will be available at the venue for half an hour before each hearing commences. It is helpful if intending participants make themselves known to staff during this time.

All hearings will be open to the public and anyone wishing to attend to observe may do so.

The examination timetable provides for the possible holding of further hearings on 28 February and 1 March 2018. If I decide to proceed with these further hearings, I will write to you separately to provide formal notice. Agendas for any further hearings that I might hold would be provided for, at least 1 week in advance of such hearings.

Finally, may I remind you of my letter of 7 December 2017 [EV-007] in which I provided notice of and arrangements for an Accompanied Site Inspection (ASI) that will be carried out on 16 January 2018, in association with the hearing programme. The notification letter and arrangements for the ASI can be found on the project page for the A19 Testos Junction Improvement project of the National Infrastructure website via the following link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010020/TR010020-000354-A19T%E2%80%93Notification%20of%20Accompanied%20Site%20Inspection.pdf>

If you have any questions about the hearing or ASI processes, please contact the case team at the above address, email address or telephone number.

Yours faithfully

*Rynd Smith*

**Rynd Smith LLB MA MRTPI FRSA  
Examining Authority**

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.

## **A19/A184 Testo's Junction Improvement Project Agenda for the Open Floor Hearing (OFH)**

<b>Date:</b>	<b>Tuesday 16 January 2018</b>
<b>Time:</b>	6.00pm Hearing room opens from 5.30pm
<b>Venue:</b>	Quality Hotel Boldon Witney Way Boldon Tyne and Wear NE35 9PE
<b>Access and Parking:</b>	Free parking at venue  Bus routes <b>Abingdon Way</b> Stagecoach X34 Go North East 9  <b>Newcastle Road (A184)</b> Stagecoach X9, X10 and X34

### **Purpose of the Open Floor Hearing (OFH)**

The OFH is held to discharge the Examining Authority's (ExA's) duty to hear Interested Parties (IPs) who request to be heard.

### **Participation, conduct and management of hearing**

All IPs who wish to make oral representations are invited to participate in the hearing, attending at the appointed start time of 6.00pm. Participation is subject to the ExA's power to control the hearing. However, this hearing does not have a subject matter controlled agenda and participants may bring up any matter arising from the application that is also important and relevant to a decision taken under the Planning Act 2008 (as amended) (PA2008). Participation is therefore of most relevance to IPs who wish to raise matters that are not addressed in the agenda for an Issue Specific Hearing (ISH) and do not relate to the effects of proposals for the Compulsory Acquisition (CA) or Temporary Possession (TP) of land or rights over land in a Compulsory Acquisition Hearing (CAH).

At this stage, no formal requests to be heard have been received. However, Mr Dennis Gilhespy [RR-002] made a written request that a hearing should be held in Boldon [AS-022] and has also submitted responses to the ExA's written questions (ExQ1) [REP2-003]. On the basis of these submissions, the ExA has decided to proceed with this hearing in Boldon and Mr Gilhespy is individually invited to attend. Mr Gilhespy's matters are addressed at Agenda item 2. It should be noted that I have a number of questions for the Applicant arising from Mr Gilhespy's matters. After I have heard any initial Open Floor submissions from Mr Gilhespy, I intend to request that the Applicant responds to my

questions on the matters that I have raised. Mr Gilhespy will be provided with a right to respond to matters raised by the Applicant arising from my questions.

The ExA requests that Highways England (the Applicant) attends the hearing. The Applicant may be asked by or through the ExA to address questions raised by IPs and will be provided with an opportunity to respond to IPs written and oral cases. If Mr Gilhespy does not attend the hearing for Agenda item 2, the Applicant should note that in the interests of efficiency the ExA will in any case examine the matters on the Agenda at item 2. It should be noted that matters pertaining to Mr Gilhespy will not be examined in the following hearings (ISH2, CAH1 or ISH3).

Participants may be legally represented if they wish, but the hearing will be conducted to ensure that legal representation is not required. The Applicant and IPs may attend with expert advisers, but IPs may participate without expert advice.

Guidance under the PA2008<sup>1</sup> and the Infrastructure Planning (Examination Procedure) Rules 2010 provide that it is the ExA that will probe, test and assess the evidence through direct questioning of persons making oral representations at hearings. Questioning at the hearing will be led by the ExA.

Cross-questioning of the person giving evidence by another person will only be permitted if the ExA decides it is necessary to ensure representations are adequately tested or that a person has had a fair chance to put their case. IPs should note that it is not normal procedure at an OFH for an ExA to permit the cross-questioning of an unrepresented IP by the Applicant or the Applicant's representatives.

The agenda may be amended by the ExA at the start of the hearing session. Furthermore, the ExA may wish to raise matters arising from oral submissions, Relevant Representations and Written Representations, and pursue lines of inquiry in the course of the discussion which are not listed on the agenda.

The hearing will run until all IPs have made their oral representations and responded to the ExA's exploration of the matters arising from them.

If by ten minutes after the conclusion of Agenda item 2, no other IPs have attended and sought a hearing in relation to any of the remaining agenda items, the ExA is entitled to conclude that none wish to do so and may then close the hearing with immediate effect.

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<sup>1</sup> DCLG: 'Planning Act 2008: Guidance for the examination of applications for development consent', March 2015.  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418015/examinations\\_guidance-\\_final\\_for\\_publication.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418015/examinations_guidance-_final_for_publication.pdf)

## Agenda

### 1. Welcome, introductions and arrangements for this Open Floor Hearing

### 2. Representations by Mr Dennis Gilhespy [RR-002]

Mr Gilhespy will be invited to put oral submissions to the ExA. A time guide of ten minutes will be applied to these submissions.

The ExA will ask questions of the Applicant about matters arising from written and oral submissions and site inspections that bear on Mr Gilhespy's interests.

- a) What is the intended duration of construction works on the land adjacent to the house at West House Farm?
- b) How will the effects of construction-related air emissions and particularly dust on the house, agricultural vehicles and equipment at West House Farm be controlled and how will complaints from the occupier be addressed?
- c) How will the effects of construction-related noise emissions on the residential occupation of the house at West House Farm be controlled and how will any complaints from the occupier be addressed?
- d) How will the effects of construction works at night and light emissions on the residential occupation of the house at West House Farm be controlled and how will any complaints from the occupier be addressed?
- e) Where will construction materials, fill, soil and spoil be stored relative to the location of the house at West House Farm? Can a line of sight between the house and the agricultural buildings be retained and, if not, what measures will be put in place to ensure the ongoing security of the farm buildings?
- f) The ExA may raise any other matters relating to the occupation of the house and, of the carrying on of the agricultural or haulage businesses at West House Farm during the construction period.
- g) Taking all matters relevant to the effects of the application proposal on West House Farm into account and noting Mr Gilhespy's stated intent to remain resident during the construction period [REP2-003]:
  - can the Applicant assure the ExA that reasonable standards of residential amenity will be retained at the dwelling throughout the construction period and highlight how this is secured in the DCO; and
  - is there any possibility that Mr Gilhespy may need to leave the premises for a period due to the effects of construction works and, if so, can his interests under his Agricultural Tenancy be protected?

Mr Gilhespy will be provided with an opportunity to comment on and respond to the Applicant's oral submissions on the above points.

To the extent that a reply is not provided by the Applicant in its responses to the ExA's questions, the Applicant will be provided with a summary right of reply to any oral submissions by Mr Gilhespy.

### **3. Representations by any other IPs**

Each IP in attendance and wishing to speak will be invited to put oral submissions to the ExA. A time guide of ten minutes per IP will be applied to these submissions.

The ExA may ask questions of the IP and the Applicant about matters arising from written and oral submissions.

The Applicant will be provided with a summary right of reply. A time guide of three minutes will be applied to these submissions.

### **4. Review of issues and actions arising**

The ExA will address how any actions placed on the Applicant are to be met and consider the approaches to be taken in further hearings, in the light of issues raised in this hearing.

### **5. Next steps**

### **6. Closure of the hearing**

## **A19 Testo's Junction Improvement Agenda for the Issue Specific Hearing 2 (ISH2)**

<b>Date:</b>	<b>Wednesday 17 January 2018</b>
<b>Time:</b>	10.00am Hearing room opens from 9.30am
<b>Venue:</b>	The Royal Station Hotel Neville Street Newcastle upon Tyne NE1 5DH
<b>Access and Parking:</b>	Paid for parking close by:  Newcastle Central Railway Station Long Stay Car Park Neville Street Newcastle upon Tyne NE1 5DL  Public transport:  <b>Bus</b> Neville Street: Stand A: 10, 11 and 38 Neville Street: Stand B: 1, 30, 31  <b>Train and Metro</b> Central Station

### **Purpose of the Issue Specific Hearing 2 (ISH2)**

ISH2 is being held for the following purposes:

- To enable the Examining Authority (ExA) to inquire into the interrelationship between the Proposed Development and other major proposals in the area, taking the local strategic planning framework into account.
- To review environmental impact considerations, including matters arising from the application documentation and representations relating to:
  - traffic forecasting;
  - air quality;
  - noise; and
  - the water environment.
- To review landscape and visual impact considerations, including matters arising from the application documentation and representations.

### **Participation, conduct and management of hearing**

This is the second ISH to be held in this Examination and the first to be held on broadly planning and environmental matters not directly related to the draft Development Consent Order (dDCO).

Provision has been made for a further ISH (ISH4) into broadly planning and environmental matters to be held on 28 February 2018. Please note that ISH4 will only proceed if it is required. If all necessary oral investigations are completed before that time, ISH4 will not proceed. If ISH4 does proceed, it is likely to enable only supplementary questions to be asked by the ExA. It will not re-examine Interested Parties (IP's) objections or matters of principle arising in relation to the broad environmental effects of the Proposed Development. For these reasons, it is important that any IP with outstanding objections or questions on environmental effects matters and who wishes to be heard should attend this hearing.

The Applicant and any IPs with outstanding objections or questions that relate to matters on this agenda are invited to attend the hearing.

The business of an ISH is limited to the matters identified in the agenda. Oral submissions on other subject matters or from persons who are not IPs may only be heard at the discretion of the ExA. It is strongly preferable that any such issues arising from IPs are brought to the Open Floor Hearing (OFH) where there is no subject matter agenda and IPs may raise any relevant and important matter.

Participation is subject to the ExA's power to control the hearing.

#### *Invited Participants*

The ExA requests that the following bodies attend and participate in ISH3 into the dDCO:

- Highways England (the Applicant).
- South Tyneside Council (STC)<sup>1</sup>.
- Sunderland City Council (SCC)<sup>1</sup>.
- IAMP LLP<sup>1</sup>.
- The Environment Agency (EA).
- Groundwork South Tyneside and Newcastle Trust (GWSTAN).
- Any other interested Local Authority or combined authority if they wish to be heard on topics in this agenda.
- Any other IP if they wish to be heard on topics in this agenda.

Mr Dennis Gilhespy [RR-002][REP2-003] has made representations that are of potential relevance to matters on this agenda, but further to Annex A, these will be heard at an Open Floor Hearing OFH.

The ExA requests that invited participants who wish to make oral representations attend at the appointed start time of 10.00am.

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<sup>1</sup> STC are invited as local planning authority and host local authority. The ExA has questions which directly relate to IAMP and on that basis has invited IAMP LLP. The ExA notes the interest of SCC in the Proposed Development and IAMP LLP. If matters relevant to SCC can be addressed by the combination of STC and IAMP LLP, the ExA would be content for this to be done and for SCC not to attend.

## *Hearing Guidance*

Participants may be legally represented if they wish, but the hearing will be conducted to ensure that legal representation is not required. The Applicant and IPs may attend with expert advisers relevant to planning and environmental effects matters and Environmental Impact Assessment (EIA) (experts on topics including strategic planning, traffic and transportation planning, noise, air quality and the water environment are likely to be relevant), but IPs may participate without expert advice if they wish.

Guidance under the Planning Act 2008 (as amended) (PA2008)<sup>2</sup> and the Infrastructure Planning (Examination Procedure) Rules 2010 provide that it is the ExA that will probe, test and assess the evidence through direct questioning of persons making oral representations at hearings. Questioning at the hearing will be led by the ExA.

Cross-questioning of the person giving evidence by another person will only be permitted if the ExA decides it is necessary to ensure representations are adequately tested or that a person has had a fair chance to put their case.

The agenda may be amended by the ExA at the start of the hearing session. Furthermore, the ExA may wish to raise matters arising from oral submissions, Relevant Representations and Written Representations, and pursue lines of inquiry in the course of the discussion which are not listed on the agenda.

The hearing will run until the ExA is content that all matters on the agenda have been addressed.

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<sup>2</sup> 'Planning Act 2008: Guidance for the examination of applications for development consent', (DCLG March 2015).  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418015/examinations\\_guidance-\\_\\_final\\_for\\_publication.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418015/examinations_guidance-__final_for_publication.pdf)

## Agenda

### 1. Welcome, introductions and arrangements for this Issue Specific Hearing 2 (ISH2)

### 2. The Traffic Case for Development

The ExA will ask the Applicant to present the traffic case for the Proposed Development and explain how this led through option development to the preferred design which forms the Proposed Development.

The ExA will invite submissions from IPs who wish to raise matters in relation to this item.

The Applicant will be provided with a right of reply.

### 3. Environmental Effects

The ExA will ask the Applicant questions in relation to the environmental effects of the Proposed Development on the following topics.

- a) Construction noise – focussing on effects on nearby residential receptors.
- b) Construction air quality – focussing on effects on nearby residential receptors.
- c) Construction water quality – focussing on effects on the River Don.
- d) Operational noise – focussing on effects on nearby receptors.
- e) Operational air quality – focussing on effects on nearby receptors and on the air quality performance of the strategic highway network.
- f) Operational water quality – focussing on the risk of pollutants and accidental spills on the River Don
- g) Landscape and visual and related biodiversity and ecological impacts – focussing on the mitigation of works to trees subject to Tree Preservation Orders (TPOs) [REP2-006] and on landscape and ecological mitigation affecting the West Boldon Lodge Environmental Education Centre site [REP1-005 and REP2-002].
- h) Social and economic effects on nearby residents and businesses.

The ExA will invite submissions from IPs who wish to raise matters in relation to these items.

The ExA will ask the Environment Agency (EA) to outline its latest position in respect of Highways Agency Water Risk Assessment Tool (HAWRAT)<sup>3</sup> and if it adequately addresses the risk of pollutants and accident spills to the receiving River Don watercourse? Views on the possible need for and if so nature of additional mitigation will be sought [REP1-004].

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<sup>3</sup> The Highways Agency has been replaced by Highways England (the Applicant), but for the avoidance of doubt, reference to the Highways Agency is made here in relation to the 'HAWRAT' tool, referred to by the Environment Agency.

The ExA will review the Local Impact Report (LIR) [REP2-006] submitted by STC and ask the Council whether it is satisfied that in respect of neutral and more particularly negative impact assessments in that document, the Applicant has proposed sufficient and appropriate mitigation and, if so, whether that mitigation is sufficiently secured?

The ExA will ask IPs if there are any other items of concern relating to environmental effects and/ or EIA that they wish to raise?

The Applicant will be provided with a right of reply.

#### **4. Relationships Between the Proposed Development and Other Major Proposals**

The ExA will ask the Applicant whether the effects of the Proposed Development and the effects of the following projects are in broad terms relevant to the assessment (including in-combination and cumulative impact assessment) of the Proposed Development, with reference to the Applicant's document 'Interrelationship with DLJ, A1 Birtley to Coalhouse and IAMP', [REP2-015]:

- a) The proposed A19 Downhill Lane Junction Improvement project?
- b) The proposed IAMP project?  
(The ExA would be grateful for an update from IAMP LLP on the current status of its project to assist the discussion of this item.)
- c) The A1 Birtley to Coal House Improvement?
- d) Do any other projects need to be taken into account?

The ExA will ask whether there are any aspects of these or other relevant relationships that need to be taken into account but that have not been fully provided for in the application documents or the dDCO?

The ExA will invite submissions from IPs who wish to raise matters in relation to these items. It will wish to hear specifically from STC and IAMP LLP<sup>4</sup> in relation to items 4(a) and (b) above.

The Applicant will be provided with a right of reply.

#### **5. The Development Plan and Other Relevant Planning Documents**

The ExA will ask questions of STC and IAMP LLP<sup>5</sup> about the development plan.

- a) Please explain the relationship between the Proposed Development and the Development Plan in force – have there been any changes since the preparation of the application documents of which the ExA needs to be made aware?

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<sup>4</sup> See footnote 1 above. SCC may participate in this discussion if it wishes.

<sup>5</sup> See footnote 1 above. SCC may participate in this discussion if it wishes.

- b) Is STC satisfied that the Proposed Development is in accordance with/ supported by the Development Plan policies cited in its LIR [REP2-006] at Appendix B (1)?
- c) STC will be asked to confirm the status of the Local Policy discussed in section 5 of its LIR (that none of these documents form part of the Development Plan/ are adopted Development Plan Documents (DPDs) and to provide a view on the degree to which the Proposed Development is in accordance with/ supported by these documents.
- d) STC and IAMP will be asked to confirm that status and present aspects of the IAMP Area Action Plan (IAMP AAP) that are relevant to the Proposed Development.
- e) Is STC satisfied that the Proposed Development is in accordance with/ supported by the IAMP AAP cited in its LIR [REP2-006] at Appendix B (2)?
- f) Are there any changes to the Development Plan or other relevant local planning policies in train that might require to be considered by the ExA or by the Secretary of State before a decision is made on this application?

The ExA will ask the Applicant whether it considers that it has addressed all relevant policies identified in the LIR in documents available to the Examination [REP2-006]?

The ExA will invite submissions from IPs who wish to raise matters in relation to this item.

The Applicant will be provided with a right of reply.

## **6. Review of issues and actions arising**

The ExA will address how any actions placed on the Applicant are to be met and consider the approaches to be taken in further hearings, in the light of issues raised in this hearing.

## **7. Next steps**

## **8. Closure of the hearing**

## A19 Testo's Junction Improvement Agenda for the Compulsory Acquisition Hearing 1 (CAH1)

<b>Date:</b>	<b>Thursday 18 January 2018</b>
<b>Time:</b>	10.00am Hearing room opens from 9.30am
<b>Venue:</b>	The Royal Station Hotel Neville Street Newcastle upon Tyne NE1 5DH
<b>Access and Parking:</b>	Paid for parking close by:  Newcastle Central Railway Station Long Stay Car Park Neville Street Newcastle upon Tyne NE1 5DL  Public transport:  <b>Bus</b> Neville Street: Stand A: 10, 11 and 38 Neville Street: Stand B: 1, 30, 31  <b>Train and Metro</b> Central Station

### Purpose of the Compulsory Acquisition Hearing

The Compulsory Acquisition Hearing 1 (CAH1) is being held for the following purposes:

- To enable the Examining Authority (ExA) to inquire into the Applicant's case to Compulsorily Acquire (CA) land or rights over land and/ or to take Temporary Possession (TP) of land.
- To discharge the ExA's duty to hear persons affected by CA and TP proposals (Affected Persons (APs)) who request to be heard.
- To enable the ExA to consider whether relevant legal and policy test applicable to CA and TP proposals have been met.

### Participation, conduct and management of hearing

This is the first of two CAHs proposed to be held in this Examination.

Provision has been made for a second CAH (CAH2) to be held on 1 March 2018. Please note that CAH2 will only proceed if it is required. If all necessary oral process investigations are completed before that time, CAH2 will not proceed. If CAH2 does proceed, it is likely to enable only supplementary questions to be asked by the ExA. It will not re-examine the Applicant's CA and TP case. For

these reasons, it is important that any AP with outstanding objections to CA and/or TP proposals who wishes to be heard should attend this hearing.

The Applicant and any APs with outstanding objections to CA and or TP proposals are entitled to be heard.

The business of a CAH is limited to the effects of CA and TP and to participation by the Applicant and APs. Oral submissions on other subject matters or from persons who are not APs will not be heard. Any such issues must be brought to another hearing: either an Issue Specific Hearing (ISH) where the issue sought to be raised is relevant to the purpose of and agenda for the hearing, or to the Open Floor Hearing (OFH) where APs may raise any relevant and important matter.

Participation is subject to the ExA's power to control the hearing.

#### *Invited Participants*

The Applicant and APs who wish to make oral representations are invited to attend at the appointed start time of 10.00am.

#### *The Applicant*

The ExA requests that Highways England (the Applicant) attends the hearing. The Applicant will be asked to present its own case for CA and TP. It may be asked by or through the ExA to address questions raised by APs and will be provided with an opportunity to respond to APs written and oral cases.

#### *CA and/ or TP Objectors*

**National Grid Electricity Transmission plc (NGET) [RR-008]** is an AP. It has made representations relevant to CA and TP which include matters construed as objections<sup>1</sup>. (It is also a statutory undertaker<sup>2</sup>). To the extent that any aspects of this objection or effects on its status as a statutory undertaker are unresolved, it is invited to attend the hearing:

In addition to matters raised by NGET, the ExA also wishes to question whether matters raised by **Groundwork Trust South Tyneside and Newcastle (GWSTAN)**, a tenant of NGET give rise to matters of relevance to CA and/ or TP. GWSTAN is invited to attend the hearing.

At present, there are no requests to be heard from other APs objecting to CA and/ or TP proposals. However the ExA will endeavour to accommodate further requests to be heard from APs if these are made.

#### *Crown, Statutory Undertakers' and Other Relevant Bodies' Interests*

The Planning Act 2008 (as amended) (PA2008) provides rights and protections for the Crown, Statutory Undertakers land and apparatus and for certain other bodies' land (set out in sections 127 to 134 inclusive). The Applicant has addressed these matters in its response to ExQ1.3.1, 1.3.2, 1.3.3 and 1.3.5(1)

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<sup>1</sup> See the Applicant's table to ExQ1.3.4(1) [REP2-009]

<sup>2</sup> See the Applicant's table to ExQ1.3.5(1) [REP2-009]

[REP2-009], but the ExA will wish to review the evidence for and any further actions arising from these responses.

To the extent that any matters relevant to a Statutory Undertaker remain un-agreed and the relevant body wishes to be heard, the following bodies may participate in the hearing if they wish:

- Northern Powergrid;
- Northumbria Water Ltd;
- BT Openreach; and
- Northern Gas Networks Ltd.

However, it is noted that none have made a RR. On that basis, it will be the ExA's primary intention to explore the status of their issues with the Applicant and make such further provision as is necessary for the provision of evidence that any outstanding issues are addressed before the end of the Examination.

At present, there are no requests to be heard from Statutory Undertakers or other relevant bodies. However the ExA will endeavour to accommodate further requests to be heard from such bodies if these are made.

### *Hearing Guidance*

Participants may be legally represented if they wish, but the hearing will be conducted to ensure that legal representation is not required. The Applicant and APs may attend with expert advisers relevant to land and rights matters (including solicitors, chartered surveyors and land agents), but APs may participate without expert advice if they wish.

Guidance under the PA2008<sup>3</sup> and the Infrastructure Planning (Examination Procedure) Rules 2010 provide that it is the ExA that will probe, test and assess the evidence through direct questioning of persons making oral representations at hearings. Questioning at the hearing will be led by the ExA.

Cross-questioning of the person giving evidence by another person will only be permitted if the ExA decides it is necessary to ensure representations are adequately tested or that a person has had a fair chance to put their case.

The agenda may be amended by the ExA at the start of the hearing session. Furthermore, the ExA may wish to raise matters arising from oral submissions Relevant Representations and Written Representations, and pursue lines of inquiry in the course of the discussion which are not listed on the agenda.

The hearing will run until all the ExA is content that all matters on the agenda have been addressed.

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<sup>3</sup> 'Planning Act 2008: Guidance for the examination of applications for development consent', (DCLG March 2015).

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## Agenda

### 1. Welcome, introductions and arrangements for this Compulsory Acquisition Hearing (CAH1)

### 2. The Applicant's case for CA and TP

The ExA will ask the Applicant to present and justify its case for CA and TP and will wish to address the following matters:

- a) To review the statutory and policy tests relevant to CA and/ or TP under the PA2008 and DCLG Guidance<sup>4</sup>.
- b) To review human rights considerations.
- c) To consider the structure and content of the Book of Reference.
- d) To consider the structure and content of the Funding Statement.
- e) To consider the structure and content of the Statement of Reasons.
- f) To review Crown consent issues.
- g) To consider impending legislative changes.

The ExA will invite submissions from APs who wish to raise matters of general application in relation to these items, but site-specific submissions will be reserved to agenda items 3 and 4.

The Applicant will be provided with a right of reply.

### 3. Site-specific issues: the NGET land

The ExA will ask questions of NGET and GWSTAN about the implications of CA and/ or TP for the land which they own and/ or occupy.

The Applicant will be provided with a right of reply.

### 4. Site-specific representations by any other APs in attendance

The ExA will review the Applicant's conclusions in its advice on the status of CA and/ or TP objections.

Any AP in attendance and wishing to speak in relation to an objection to CA and/ or TP proposals will be invited to put oral submissions to the ExA.

The ExA may ask questions of the AP and the Applicant about matters arising from written and oral submissions.

The Applicant will be provided with a right of reply.

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<sup>4</sup> 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (DCLG 2013)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/236454/Planning\\_Act\\_2008\\_-\\_Guidance\\_related\\_to\\_procedures\\_for\\_the\\_compulsory\\_acquisition\\_of\\_land.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236454/Planning_Act_2008_-_Guidance_related_to_procedures_for_the_compulsory_acquisition_of_land.pdf)

## **5. Crown, Statutory Undertakers' and Special Land Issues**

The ExA will review the Applicant's conclusions in its advice on the status of objections from or issues raised by Statutory Undertakers or in relation to any other land the status of which is protected under PA2008 (sections 127 to 134 inclusive).

Any Statutory Undertaker or other relevant body in attendance and wishing to speak in relation to an objection or issue raised that is relevant to the effects of the Proposed Development on its undertaking, apparatus or land will be invited to put oral submissions to the ExA.

The ExA may ask questions of the Statutory Undertaker or other relevant body and the Applicant about matters arising from written and oral submissions.

The Applicant will be provided with a right of reply.

## **6. Review of issues and actions arising**

The ExA will address how any actions placed on the Applicant are to be met and consider the approaches to be taken in further hearings, in the light of issues raised in this hearing.

## **7. Next steps**

## **8. Closure of the hearing**

**A19/A184 Testo's Junction Improvement Project  
Agenda for Issue Specific Hearing 3 (ISH3)**

**Date:** Friday 19 January 2018

**Time:** 10.00am  
Hearing room opens from 9.30am

**Venue:** The Royal Station Hotel  
Neville Street  
Newcastle upon Tyne  
NE1 5DH

**Access and Parking:** Paid for parking close by:

Newcastle Central Railway Station  
Long Stay Car Park  
Neville Street  
Newcastle upon Tyne  
NE1 5DL

Public transport:

**Bus**  
Neville Street: Stand A: 10, 11 and 38  
Neville Street: Stand B: 1, 30, 31

**Train and Metro**  
Central Station

**Purpose of the Issue Specific Hearing 3 (ISH3)**

On 15 November 2017, the Examining Authority (ExA) held Issue Specific Hearing 1 (ISH1) into the draft Development Consent Order (dDCO). ISH1 commenced the task of examining the dDCO to consider:

- i. how the draft responds to the project definition;
- ii. the approach taken to principal, associated and ancillary development;
- iii. the Applicant's response to relevant Planning Inspectorate Advice notes;
- iv. the relationship between this dDCO and related highways made Orders;
- v. the justification for innovative approaches and changes from established practice;
- vi. the need for and effect of changes to other legislative provisions;
- vii. whether the policy tests for requirements are met;
- viii. the need for protective provisions, progress in any negotiations and changes to these;
- ix. the need for any commercial agreements, planning obligations or equivalent side provisions, progress in any negotiations and changes to these; and
- x. drawing forward from discussion in the Compulsory Acquisition Hearing (CAH), the need for and drafting of any consents and related provisions relevant to the Crown, Statutory Undertakers or other protected bodies.

On the basis that ISH1 was held at the outset of the Examination and before Interested Parties (IPs) had made their Written Representations (WRs), IPs and Affected Persons (APs) were not expected to raise any concerns that they might have in relation to the dDCO at that hearing.

ISH3 is being held for the following purposes:

- To enable the ExA to inquire into the Applicant's ongoing development of and changes to the dDCO.
- To track and explain changes to the dDCO submitted since the last Issue Specific Hearing into the DCO (ISH1).
- To enable IPs and APs to raise any specific concerns that they might have about the provisions of the dDCO, arising from their WRs or responses to ExQ1.

### **Participation, conduct and management of hearing**

This is the third ISH and the second hearing into the dDCO to be held in this Examination.

Provision has been made for a third ISH into the dDCO (ISH5) to be held on 1 March 2018. Please note that ISH5 will only proceed if it is required. If all necessary oral investigations are completed before that time, ISH5 will not proceed. If ISH5 does proceed, it is likely to enable only supplementary questions to be asked by the ExA. It will not re-examine the IP's objections to elements of the dDCO. For these reasons, it is important that any IP with outstanding objections to provisions in the DCO who wishes to be heard should attend this hearing.

The Applicant and any IPs with outstanding objections that relate to matters on this agenda are invited to attend the hearing.

The business of an ISH is limited to the matters identified in the agenda. Oral submissions on other subject matters or from persons who are not IPs may only be heard at the discretion of the ExA. It is strongly preferable that any such issues arising from IPs are brought to the Open Floor Hearing (OFH) where there is no subject matter Agenda and IPs may raise any relevant and important matter.

Participation is subject to the ExA's power to control the hearing.

#### *Invited Participants*

The ExA requests that the following bodies attend and participate in ISH3 into the dDCO:

- Highways England (the Applicant).
- South Tyneside Council (STC).
- IAMP LLP.
- Any other interested local authority or combined authority if they wish to be heard.

- Any other IP concerned about the structure or content of the dDCO if they wish to be heard.

Mr Dennis Gilhespy [RR-002][REP2-003] has made representations that are of potential relevance to the matters on this agenda. However, the ExA notes his preference not to attend a hearing in Newcastle upon Tyne [AS-022] and has prepared an agenda for the OFH at Boldon to enable matters raised by Mr Gilhespy and relevant to the dDCO to be heard there.

The ExA requests that invited participants who wish to make oral representations are invited to attend at the appointed start time of 10.00am.

### *Hearing Guidance*

Participants may be legally represented if they wish, but the hearing will be conducted to ensure that legal representation is not required. The Applicant and APs may attend with expert advisers relevant to land and rights matters (including solicitors, chartered surveyors and land agents), but APs may participate without expert advice if they wish.

Guidance under the Planning Act 2008 (as amended) (PA2008)<sup>1</sup> and the Infrastructure Planning (Examination Procedure) Rules 2010 provide that it is the ExA that will probe, test and assess the evidence through direct questioning of persons making oral representations at hearings. Questioning at the hearing will be led by the ExA.

Cross-questioning of the person giving evidence by another person will only be permitted if the ExA decides it is necessary to ensure representations are adequately tested or that a person has had a fair chance to put their case.

The agenda may be amended by the ExA at the start of the hearing session. Furthermore, the ExA may wish to raise matters arising from oral submissions Relevant Representations and Written Representations, and pursue lines of inquiry in the course of the discussion which are not listed on the agenda.

The hearing will run until all the ExA is content that all matters on the agenda have been addressed.

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<sup>1</sup> 'Planning Act 2008: Guidance for the examination of applications for development consent', (DCLG March 2015).  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418015/examinations\\_guidance-\\_\\_final\\_for\\_publication.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418015/examinations_guidance-__final_for_publication.pdf)

## **Agenda**

### **1. Welcome, introductions and arrangements for this Issue Specific Hearing (ISH3) into the dDCO**

### **2. Progress Report by the Applicant: Changes to the dDCO since ISH1**

The ExA will ask the Applicant to present and justify changes to the dDCO since ISH1 and will wish to address the following matters:

- a) Changes made to address an agenda item in ISH1 (and Table 1 to Annex E in that agenda) [PD-005].
- b) Any other changes proposed by the Applicant in its latest dDCO [REP2-010/ 011].
- c) The relationship between the Proposed Development and the Downhill Lane project.
- d) The relationship between the Proposed Development and IAMP.

The ExA will invite submissions from IPs who wish to raise matters in relation to these items.

The Applicant will be provided with a right of reply.

### **3. IP's Issues**

The ExA will seek submissions from IPs in attendance to identify whether any further changes to dDCO drafting are sought and the justification for any changes sought by IPs.

The ExA may ask questions of IP's and the Applicant about matters arising from written and oral submissions.

The Applicant will be provided with a right of reply.

### **4. ExA Issues**

To the extent that these have not been raised and addressed under either items 2 or 3 above, the ExA will review the issues raised in the latest dDCO [REP2-010/ 011], cross-referring these to matters of relevance to the dDCO arising from:

- a) the OFH;
- b) ISH2; and/ or
- c) the CAH.

Any IP in attendance and wishing to speak in relation to these matters will be invited to put oral submissions to the ExA.

The Applicant will be provided with a right of reply.

## **5. Review of issues and actions arising**

The ExA will address how any actions placed on the Applicant are to be met and consider the approaches to be taken in possible further hearings, in the light of issues raised in this hearing.

## **6. Next steps**

## **7. Closure of the hearing**