



# The Planning Inspectorate

## Application by Highways England for the A19 / A184 Testos Junction Improvement Project The Examining Authority's Table of Issues and Questions for Issue Specific Hearing 4: Outstanding Issues (ISH4)

Issued on 21 February 2018

The following table sets out the Examining Authority's (ExA's) Issues and Questions for **Issue Specific Hearing 4: Outstanding Issues (ISH4)** to be held at the Royal Station Hotel, Newcastle upon Tyne from 10am on 28 February 2018. The table sets out detail in support of the Agenda for ISH4.

The examination timetable enabled the ExA to issue a round of further written questions on 15 February 2018. Having decided to proceed with hearings, noting that most of the remaining issues and questions were for response by the Applicant and so can be addressed in a hearing, the ExA decided not to issue further written questions. All remaining issues and questions that do not bear on the draft Development Consent Order (dDCO) have instead been set out here.

The issues and questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annexe B to the Rule 6 letter of 17 October 2017.

Whilst the primary intention is that questions are responded to orally in ISH4, they can also be responded to in writing by Deadline 5 (D5). Column 2 of the table indicates which Interested Parties (IPs) questions are relevant to. If named IPs are present at ISH4, the ExA will invite them to speak on that question. If IPs other than the Applicant are not in attendance, the ExA would be grateful if they could answer in writing. An IP who is not named may request to speak on a question at the hearing or may respond in writing, should a question be relevant to their interests.

Each question has a unique reference number which starts with ISH4 (indicating that it is from this hearing) and then has an issue number and a question number. For example, the first question utility network issues, is identified as ISH4.5.1. If you are answering a question in writing, please start your answer by quoting the unique reference number. If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact [A19TestosJunction@pins.gsi.gov.uk](mailto:A19TestosJunction@pins.gsi.gov.uk) and include 'A19 / A184 Testos ISH4 Table' in the subject line of your email.

Written responses are due by **Deadline 5 (D5): Thursday 8 March 2018**.

## Abbreviations Used

<b>PA2008</b>	<i>The Planning Act 2008 as amended</i>	<b>ExA</b>	<i>Examining Authority</i>
<b>A19 DLJ</b>	<i>A19 Downhill Lane Junction</i>	<b>HEMP</b>	<i>Handover Environmental Management Plan</i>
<b>A19 TJ</b>	<i>A19 Testo's Junction</i>	<b>LIR</b>	<i>Local Impact Report</i>
<b>AN</b>	<i>Planning Inspectorate Advice Note</i>	<b>LPA</b>	<i>Local planning authority</i>
<b>Art</b>	<i>Article</i>	<b>MP</b>	<i>Model Provision (in the MP Order)</i>
<b>ALA 1981</b>	<i>Acquisition of Land Act 1981</i>	<b>MP Order</b>	<i>The Infrastructure Planning (Model Provisions)(England &amp; Wales) Order 2009</i>
<b>BoR</b>	<i>Book of Reference</i>	<b>NPA2017</b>	<i>The Neighbourhood Planning Act 2017</i>
<b>CA</b>	<i>Compulsory Acquisition</i>	<b>NPS</b>	<i>National Policy Statement</i>
<b>CEMP</b>	<i>Construction Environmental Management Plan</i>	<b>NSIP</b>	<i>Nationally Significant Infrastructure Project</i>
<b>CPO</b>	<i>Compulsory Purchase Order</i>	<b>R</b>	<i>Requirement</i>
<b>D{number}</b>	<i>Examination Deadline {number}</i>	<b>SI</b>	<i>Statutory Instrument</i>
<b>dDCO</b>	<i>Draft DCO</i>	<b>SoS</b>	<i>Secretary of State</i>
<b>EM</b>	<i>Explanatory Memorandum</i>	<b>TP</b>	<i>Temporary Possession</i>
<b>ES</b>	<i>Environmental Statement</i>		

## The Examination Library

References in these questions set out in square brackets (eg [REP4-007]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

<http://infrastructure.planninginspectorate.gov.uk/document/TR010020-000263>

It will be updated as the examination progresses.

ISH4	Question to:	Question:
<b>4.0</b>	<b>General and Cross-topic Questions</b>	
<b>4.0.1</b>	The Applicant and IPs	<p><b>Report on Non-Statutory Consultation</b>                      The ExA requested the Applicant to conduct non-statutory consultation in respect of its procedural decision of 24 November 2017, ensuring that possibly interested persons were notified of non-material changes to the application and of an addendum to the ES. The non-statutory consultation has concluded and was reported on by the Applicant at D3 [REP3-018]. No substantive comments were raised.</p> <ul style="list-style-type: none"> <li>• Are there any matters arising from the non-statutory consultation or the Applicants report upon it that the ExA should have regard to before resolving to accept the non-material changes and the addendum to the ES for examination purposes and to form the basis on which it will report on the application to the SoS?</li> </ul>
	There are questions on this issue, but they have been consolidated into issue 4.8 (Other Strategic Projects and Proposals).	
<b>4.1.</b>	<b>Air Quality and Emissions</b>	
	There are questions on this issue, but they have been consolidated into issue 4.8 (Other Strategic Projects and Proposals).	
<b>4.2.</b>	<b>Biodiversity, Ecology and Natural Environment</b> (including Habitats Regulations Assessment(HRA))	
	There are no questions on this issue.	
<b>4.3.</b>	<b>Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations</b>	
<b>4.3.1.</b>	The Applicant	<p><b>ExQ1.3 and CAH1</b></p> <p>The Applicant is asked to refer to ExQ1.3 and with reference to questions 1.3.1 to 1.3.6 there and the textual and tabulated responses provided to them, confirm whether any relevant information has changed. If any relevant information has changed, the Applicant is requested to update its responses provided there under the following references:</p> <ul style="list-style-type: none"> <li>• National Trust Land – ISH4.3.1</li> <li>• Commons, open spaces etc. – ISH4.3.2</li> </ul>

ISH4	Question to:	Question:
		<ul style="list-style-type: none"> <li>• Crown Lane – ISH4.3.3 and a Table entitled <b>ISH4.3.3: Crown Land and Consent</b></li> <li>• Objections Schedule - a Table <b>entitled ISH4.3.4: Schedule of CA Objections</b></li> <li>• Statutory Undertakers’ Schedule - a Table <b>entitled ISH4.3.5: PA2008 s127 Statutory Undertakers</b></li> <li>• Statutory Undertakers’ Rights Schedule – a Table <b>entitled ISH4.3.6: PA2008 s138 Statutory Undertakers</b></li> </ul> <p>The Applicant is requested to maintain this information up to date, with further submissions recording any further changes at D5, D6 and D7 as required. On the basis that all outstanding statutory undertaker matters appear to be resolved (but see Issue 4.5 further below) the Applicant is requested to provide clear evidence by D7 that there are no outstanding matters that bear on PA2008 ss127 or 138.</p>
4.3.2.	The Applicant	<p><b>Compulsory Acquisition Negotiations Status Report</b> The Applicant provided a status report on CA negotiations at D3 [REP3-020].</p> <ul style="list-style-type: none"> <li>• With reference to its responses provided to ISH4.3.1 above, the Applicant is requested to indentify whether ongoing negotiations have given rise to any changes to the status report and/or changes to the BoR?</li> <li>• If further status report or BoR changes have been made or are anticipated, the Applicant is requested to submit a revised version of each, with a mark-up identifying the changes.</li> <li>• The Applicant is requested to maintain this information up to date, with further submissions recording any further changes at D5, D6 and D7 as necessary.</li> </ul>
4.3.3.	The Applicant	<p><b>Ongoing Diligence on Land and Rights: Book of Reference</b> NSIP Applicants typically undertake diligence on land and rights on an ongoing basis throughout the Examination period, with a view to providing the SoS with the best and most up-to-date information.</p> <ul style="list-style-type: none"> <li>• With reference to its responses provided to ISH4.3.1 above, the Applicant is</li> </ul>

ISH4	Question to:	Question:
		<p>requested to indentify whether ongoing diligence on land and rights has given rise to any further changes to the BoR?</p> <ul style="list-style-type: none"> <li>• If further BoR changes have been made or are anticipated, the Applicant is requested to submit a revised version with a mark-up identifying the changes.</li> <li>• The Applicant is requested to maintain this information up to date, with further submissions recording any further changes at D5, D6 and D7 as necessary.</li> </ul>
4.3.4.	The Applicant	<p><b>Updated Statement of Reasons</b>                      The Statement of Reasons in its latest version (Rev 1) (plain text) [AS-009] and tracked changes [AS-010]) includes amendments which have the effect of providing reasons for permanent acquisition of land on Plots 1/1b, 1/1e and 1/2a that are no longer related to a specific numbered work and are now recorded recorded as '<i>[t]raffic management and ancillary highway works</i>'.</p> <ul style="list-style-type: none"> <li>• The ExA seeks a more specific explanation of the reasons for permanent acquisition on these plots.</li> </ul>
4.4.	<b>Draft Development Consent Order (DCO)</b>	
	<p>A letter from the ExA dated 31 January 2018 provided notice of an Issue Specific Hearing (ISH) on the dDCO to be held on Thursday 1 March 2018 (ISH5). A separate Agenda and schedule of issues and questions has been provided for ISH5 and no dDCO matters are raised here. If any matters bearing on the structure or content of the dDCO emerge within ISH4, the discussion of them will be carried forward into ISH5.</p>	
4.5.	<b>Electricity Connections and Other Utility Infrastructure</b>	
4.5.1.	The Applicant and Northern Gas Networks (NGN)	<p><b>Northern Gas Networks</b>                      ExQ1:5.5 addressed Northern Gas Networks (NGN). Since that question was responded to, the ExA has received two bundles of correspondence from NGN [AS-024][AS-025]. Whilst that correspondence initially suggested that there negotiations on the safeguarding of gas distribution assets was not complete to NGN's satisfaction, it now appears that negotiations have been brought to a conclusion.</p>

ISH4	Question to:	Question:
		<ul style="list-style-type: none"> <li>• Please identify the current status of discussions with Northern Gas Networks and whether there has been any recent contact or change of which the ExA is unaware?</li> <li>• Please provide evidence at or before D7 that all remaining matters bearing on NGN have been resolved and confirming that there are no matters relevant to PA2008 s127 or s138 on which the ExA will need to report to the SoS.</li> </ul>
<b>4.6A</b>	<b>Historic Environment</b>	
	There are no questions on this issue.	
<b>4.6.</b>	<b>Landscape and Visual</b>	
	There are no questions on this issue.	
<b>4.7.</b>	<b>Noise and Vibration</b>	
	There are questions on this issue, but they have been consolidated into issue 4.8 (Other Strategic Projects and Proposals).	
<b>4.8.</b>	<b>Other Strategic Projects and Proposals</b>	
<b>4.8.1.</b>	The Applicant	<p><b>A19 Downhill Lane Junction (A19 DLJ): Shared Works: General Considerations, Construction Compound Siting and Mitigation</b></p> <p>Further to matters arising from the OFH, ISH2 &amp; 3 in January 2018, the Applicant prepared a 'Note on Cumulative Effects Assessment' [REP4-007].</p> <p>Section 4.2 of that document states that mitigation for the A19 / A184 Testo's Junction (A19 TJ) Improvement project has been identified "<i>taking into account information reasonably available about the potential cumulative effects with other proposed projects.</i>"</p> <p>On the basis that A19 TJ and A19 DLJ have been prepared by the same applicant and the DLJ scheme is at such a stage whereby the design is known (as an application is imminently to be submitted), is it not fair to assume what is reasonably available to the A19 TJ application regarding A19 DLJ would allow for a more meaningful / quantitative assessment than the Applicant has so far provided? There is an argument that an ES should provide as much information as it reasonably can about cumulative / in-combination effects.</p>

ISH4	Question to:	Question:
		<p>In order to be clear that A19 DLJ’s use of the main site compound (taken from the SoR [AS-009] as being Plot 2/2f and in respect of use as further recorded at paragraph 5.3 – 5.6 and 5.14 of [REP4-007]) would only relate to project management, engineering teams and supervisory activities and that in broad terms there would be either no additional effects or those effects would not be significant, it does appear to be useful for the construction compound to be locationally specified in the dDCO as a numbered Work and shown on the Works Plans.</p> <p>Further, references to the main site compound in the application document set (and particularly the ES) are not fully consistent. References are made to a “contractors’ compound”, “the construction site compound” and the “site compound” at various points in the documents. These are taken as referring to the same land and proposed use, but scope for a later proposition that it is not does not yet seem to have been excluded.</p> <ul style="list-style-type: none"> <li>• Whilst it is understood that the Applicant would prefer not to locate the main construction compound with greater precision, but noting the approach already taken in the SoR [AS-009], the Applicant is asked again whether any harm would be done to the Proposed Development by making the compound into a numbered Work in the dDCO, located on the Works Plans?</li> </ul>
4.8.2.	The Applicant	<p><b>A19 DLJ: Shared Works: General Considerations, Construction Compound Siting and Mitigation</b></p> <p>Section 5.1 of [REP4-007] states that “[a]s identified by the Applicant at ISH3, the use of the construction compound by [A19] DLJ will be assessed as part of that scheme’s application. Any existing adverse effects of the Scheme also using the compound at the same time as [A19] DLJ will therefore be assessed by [A19] DLJ as part of its cumulative effects assessment, and mitigated as necessary.” For the same reasons as are set out in ISH4.8.1 above:</p> <ul style="list-style-type: none"> <li>• Is there not an argument that the ES for A19 TJ should be able to use</li> </ul>

ISH4	Question to:	Question:
		information derived from the A19 DLJ pre-application documentation to more precisely determine the cumulative / in-combination effects and the mitigation required?
4.8.3.	The Applicant	<p><b>A19 DLJ: Shared Works: Construction Compound Fugitive Dust</b>            Section 5.6 of [REP4-007] states that A19 DLJ works would lead to “some” additional Heavy Duty Vehicle (HDV) movements in excess of those included in the A19 TJ assessment. This is not quantified other than to say the scale of activity anticipated for A19 DLJ is smaller. The ExA has not been provided with a quantification of the additional HDV movements attributable to A19 DLJ, so the Applicant’s statement that “<i>the additional vehicle movements would not cause any significant increases in fugitive dust emissions</i>” is not substantiated.</p> <ul style="list-style-type: none"> <li>• Are there any outline numbers available from the current stage of the A19 DLJ assessment that would enable the additional HDV movements to be expressed as a percentage in addition to the HDV movements assessed for A19 TJ?</li> <li>• Is there any prospect of a significant increase in fugitive dust emissions at the West Pastures Traveller Site, which is taken to be the receptor closest to the additional HDV movements?</li> </ul>
4.8.4.	The Applicant	<p><b>A19 DLJ: Shared Works: Construction Compound Fugitive Dust Mitigation</b>            Section 5.6 of [REP4-007] states that mitigation to control fugitive dust emissions contained within the A19 TJ Construction Environmental Management Plan (CEMP) would be sufficient to cover the additional HDV activities anticipated in respect of A19 DLJ.</p> <ul style="list-style-type: none"> <li>• With reference to the anticipated practical measures in the proposed mitigation, can the Applicant provide a more fully reasoned sense of how that conclusion has been drawn?</li> </ul>
4.8.5.	The Applicant	<p><b>A19 DLJ: Shared Works: Construction Compound Traffic Impacts</b>            Sections 5.14 and 5.20 of [REP4-007] both engage with the number of additional</p>



ISH4	Question to:	Question:
		<p>employee / contractor vehicle movements to and from the compound attributable to A19 DLJ.</p> <p>Paragraph 5.14 refers to <i>"a slight increase in vehicle movements."</i></p> <p>Paragraph 5.20 refers to a <i>"small number of potential additional vehicles [which] are unlikely to give rise to significant effects on road users from combined use of the compound"</i>.</p> <ul style="list-style-type: none"> <li>The analysis here is not quantitatively supported. Are there any outline numbers available from the current stage of the A19 DLJ assessment that would enable the additional employee and contractor movements to be expressed as a percentage in addition to the HDV movements assessed for A19 TJ?</li> </ul>
4.8.6.	The Applicant	<p><b>A19 DLJ: Shared Works: Construction Compound Traffic Noise</b></p> <p>On the basis of the traffic analysis in paragraph 5.14 of [REP4-007] and the HDV analysis in paragraph 5.15, it is suggested that a slight increase in vehicle movements would not add any additional significant noise effects and a "marginal increase in noise impacts for sensitive receptors" due to HDV movements would occur.</p> <ul style="list-style-type: none"> <li>The analysis here is not quantitatively supported. Are there any outline traffic and HDV noise calculations available from the current stage of the A19 DLJ assessment that would enable the additional employee and contractor movements and HDV movements to be summed into the noise impact calculations for A19 TJ?</li> </ul>
4.8.7.	The Applicant	<p><b>A19 DLJ: Shared Operational Design: Drainage: Water Framework Directive (WFD) Compliance</b></p> <p>Broad agreement between the Applicant and the Environment Agency (EA) on WFD compliance and the application of HAWRAT is noted.</p>

ISH4	Question to:	Question:
		<p>Securing the position agreed between the Applicant and EA arguably relies on certainty around the location of outfalls into the River Don catchment. Outfall locations are proposed in the ES at Figure 2.10 [APP-020], where the southern outfall is located at A, adjacent to Attenuation Pond 1 and the northern outfall is located at B, between Attenuation Pond 2 and Hedworth. The locations are partially documented in the Environmental Masterplan [APP-053], where the outfall shown located at A in ES Figure 2.10 is denoted on the plan. However, the outfall shown located at B in ES Figure 2.10 is not shown on the Environmental Masterplan.</p> <p>Requirement 8 in the dDCO links to the REAC but does not secure the Environmental Masterplan.</p> <p>Whilst dDCO Work No.10 provides for what is taken to be the southern outfall (located at A in ES Figure 2.10) adjacent to Attenuation Pond 1, the dDCO does not appear to contain a numbered work that provides for the northern outfall and Attenuation Pond 2.</p> <ul style="list-style-type: none"> <li>• Is any more clarity about or security for the location of these outfalls required and, if so, how can that best be provided?</li> </ul>
<b>4.9.</b>	<b>Socio-economic Effects</b>	
	There are questions on this issue, but they have been consolidated into issue 4.8 (Other Strategic Projects and Proposals).	
<b>4.10.</b>	<b>Transportation and Traffic</b>	
	There are questions on this issue, but they have been consolidated into issue 4.8 (Other Strategic Projects and Proposals).	
<b>4.11.</b>	<b>Water Environment</b>	
	There are questions on this issue, but they have been consolidated into issue 4.8 (Other Strategic Projects and Proposals).	