



Planning Act 2008 – Section 91

Application by Highways England for an Order Granting Development Consent for the A38 Derby Junctions project

Agenda for Issue Specific Hearing 1 dealing with matters relating to the draft Development Consent Order

This document sets out the arrangements and agenda for the issue specific hearing on the draft Development Consent Order (dDCO) that was notified by the Examining Authority (ExA) in its letter dated 23 August 2019.

- Date of hearing:** Tuesday, 8 October 2019
- Seating available:** 30 minutes before the hearing begins
- Hearing begins:** 1.30pm or, if later, 1 hour after the close of the Preliminary Meeting
- Venue:** Best Western The Stuart Hotel
119 London Road
Derby, Derbyshire
DE1 2QR
- Access and parking:** Free parking. The main car park is down the right side of the main entrance to the hotel. An alternative car park is available to the left of the hotel, off Trinity Street. Each car park has a barrier. When you arrive, drive up to the barrier and it will raise automatically. Ask the hotel reception for an exit code when you leave.

Purpose of the issue specific hearing

The purpose of this early issue specific hearing is for the ExA to examine the dDCO. The Development Consent Order is the Order which the Secretary of State would make if they decided to grant consent for the application. The hearing will principally be informed by the dDCO and the Explanatory Memorandum submitted by the Applicant with their application.

The ExA considers that it is expedient to examine these matters, issues and questions orally at the outset of the Examination in order to ensure that technical and legal matters arising from the dDCO are identified and considered as early as possible. This hearing, and any subsequent hearings on the dDCO, will be held without prejudice to the ExA's consideration of the broader merits of the Application.

The ExA will not examine matters arising from the content of individual Relevant Representations at this hearing. Technical dDCO drafting considerations relating to Compulsory Acquisition and the Temporary Possession of land will be examined, but individual Affected Person's concerns about their land and rights will not be examined. These are all matters that will be the subject of future hearings, following the submission of Written Representations.

Discussion at this hearing is 'without prejudice'. This means that parties may make contributions to improve the quality of the dDCO without invalidating their own positions of support or opposition to the Proposed Development as a whole.

Irrespective of its recommendation, the ExA is required to present a dDCO to the Secretary of State. Discussion about the specifics of the dDCO does not indicate that the ExA has made up its mind about the application.

The hearing into the dDCO is likely to be of a technical nature and will be based on the specific wording of the Order.

A member of the Planning Inspectorate's case team will be available at the venue for half an hour before the hearing commences. They will be able to answer any questions about procedural matters or the running of the hearing.

Attendance at the issue specific hearing

All Interested Parties (IPs) are invited to attend the hearing.

In its letter dated 23 August 2019, the ExA requested that the following attendees participate in the hearing:

- the Applicant
- Derby City Council
- Derbyshire County Council
- Erewash Borough Council
- The Environment Agency
- Network Rail
- Severn Trent Water
- Western Power Distribution
- Cadent Gas
- any other IPs with an interest in the drafting of the DCO; implementation or discharge of proposed articles, requirements or other provisions; or seeking protective provisions or any related side agreements.

These parties have been specifically invited because they are public bodies and others who are named in the draft provisions within the dDCO; and/or because they are local authorities or statutory undertakers for the affected area.

Hearing agenda

This agenda is for guidance only. It is not designed to be exclusive or exhaustive. The ExA reserves the right to rearrange the agenda for this hearing on the day; may add other issues for consideration; or may alter the order in which issues are considered.

Item 1	Welcome, opening remarks and introductions
Item 2	The purpose of this issue specific hearing and how it will be conducted
Item 3	The overall structure of the dDCO The ExA will invite the Applicant to take up to 10 minutes to set out: <ul style="list-style-type: none">• its overall approach for the dDCO• a brief description of the structure of the dDCO, including the Schedules, explaining why each section is required• the role of the Explanatory Memorandum

Item 4	<p>Specific issues and questions</p> <p>The ExA will take the hearing through the dDCO paragraph by paragraph, and, as it considers necessary, will:</p> <ul style="list-style-type: none"> • raise the ExA’s issues and questions that have been published on the project website at https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010022/TR010022-000747-A38%20Derby%20Junctions%20dDCO%20ISH1%20issues%20and%20questions%20FINAL.pdf • invite the Applicant and any other parties to respond • invite the Applicant to provide any clarifications that it feels are necessary • address any matters that have been notified by IPs to the ExA in advance of the hearing in accordance with Annex E of the ExA’s letter dated 23 August 2019 • allow the ExA to take any other contributions and to ask any further questions
Item 5	<p>Any other dDCO matters</p> <p>Time permitting, and at its discretion, the ExA may invite any parties present to raise any other matters related to the dDCO.</p>
Item 6	<p>Record of the hearing, issues and actions arising</p> <p>The ExA will address how any actions are to be met and consider the approaches to be taken to the examination of the dDCO in the light of issues raised in this hearing.</p>
Item 7	<p>The next steps in the Examination</p>
Item 8	<p>Any other business and close of the issue specific hearing</p>

The ExA will seek to allocate enough time to each issue to allow its’ proper consideration. The ExA will aim to close the hearing by 5.00pm. If discussion of an issue takes longer than anticipated, then it may have to be addressed later, in writing or at a future hearing.

Conduct and management of the hearing

Guidance under the Planning Act 2008 and the Examination Procedure Rules provide that at hearings it is the ExA that will probe, test and assess the evidence through direct questioning of persons making oral representations. Questioning at the hearing will therefore be led by the ExA. IPs wishing to make a representation will be invited to do so at the ExA’s discretion.

Cross-examination of a person giving evidence by another person will only be permitted if the ExA decides it is necessary to ensure representations are adequately tested. For most, if not all, matters the ExA will question persons directly.

Breaks may be taken during the hearing when convenient and as directed by the ExA.

An audio recording will be made of the hearing.

After the hearing

The audio recording and the ExA’s summary of actions will be made available on our website as soon as is practicable after the hearing.

Any post-hearing documents or written summaries of oral representations requested by the ExA are to be received by deadline 1 of the Examination Timetable, which will be issued as soon as is practicable after the hearing.