



Department for Transport

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To: Highways England, Network
Rail, East Midlands Reserve Forces
and Cadets Association, Western
Power Distribution

Date: 3 November 2020

Dear Sir/Madam

Planning Act 2008 (as amended)

Application by Highways England ("the Applicant") for an Order granting Development Consent to construct a replacement of three roundabouts on the A38 in Derby known as the Kingsway, Markeaton and Little Eaton junctions with grade-separated interchanges. ("the Proposed Development").

REQUEST FOR COMMENTS FROM THE APPLICANT, NETWORK RAIL, EAST MIDLANDS RESERVE FORCES AND CADETS ASSOCIATION, WESTERN POWER DISTRIBUTION, AND OTHER INTERESTED PARTIES

The Examining Authority submitted on 8 October 2020 a Report and Recommendation in respect of its findings on the above application to the Secretary of State for Transport ("the Secretary of State"). In accordance with section 107 of the Planning Act 2008, the Secretary of State has until 8 January 2020 to make a decision on the application. I am writing in relation to some outstanding matters at the end of Examination on which we would appreciate updated information before determining the application.

Crown Land

The Secretary of State notes that the Book of Reference [\[REP13-002\]](#) identifies plots subject to Crown interest held by the Secretary of State for Defence.

The Secretary of State further notes the Applicant provided a letter from the Head of Estates at the East Midlands Reserve Forces and Cadets Association ("EMRFCA")



referring to temporary possession being requested for plots 3/5a, 3/5b and 3/5d and permanent new rights over plot 3/5c [\[REP14-031\]](#). However, no mention is made in the letter to plots 3/6 or 3/7 for which compulsory acquisition has been requested. In addition, the Secretary of State notes that the book of reference shows that temporary possession and compulsory acquisition of rights for plot 3/5a has been requested. However, only temporary possession of plot 3/5a is referred to in the letter from EMRFCA. Also, permanent acquisition of plot 3/5c is requested, and only permanent new rights over plot 3/5c are referred to in the letter.

Please could the Head of the EMRFCA confirm whether consent is given for compulsory acquisition and temporary possession for the plots requested in accordance with the Book of Reference?

Network Rail Framework Agreement

The Secretary of State notes that the Framework Agreement had not been completed by the close of the examination [\[REP14-019\]](#).

Please could the **Applicant** and **Network Rail** confirm the status of this agreement?

Temporary Possession of land in Schedule 7

The Secretary of State invites the **Applicant** to provide a further indication in relation to which plots of land listed in Schedule 7 they might need to acquire permanent rights over, and, in respect of those plots, what consultation has been undertaken with those with an interest in the land on this issue and in particular whether, and if so how and when, the potential acquisition of permanent rights was brought to their attention.

Article 10 (4)(a)

The Secretary of State notes that in reference to article 10(4) one of the utilities listed is Western Power Distribution, with the company number 03600574. The company with that number is Western Power Distribution (West Midlands) PLC.

Please can the **Applicant** and **Western Power Distribution** clarify which company is intended to be referred to?

Special Category Land

The Applicant is asked to respond to the following questions relating to certain plots of Special Category Land.

Plot 2/9 is not included in Part 5 (special category land) of the book of reference but is included in the definition of "the special category (rights) land" in article 38(5) of the DCO and is shown as being special category land on the special category land plans. The Applicant is asked to clarify whether plot 2/9 has been correctly defined as special category (rights) land notwithstanding its omission from Part 5 of the book of reference.

Plot 3/1aa is included in the definition of “the special category land” in article 38(5) of the DCO. The plot is described in the book of reference as “Temporary possession and use of land and acquisition of rights over land” but is shown on the land plans and special category land plans as land which is only required temporarily (and is not subject to permanent rights). The Applicant is asked to clarify whether the correctness of the description of plot 3/1aa in the book of reference.

Plot 1/4b is included in both the definition of “the special category land” and “the special category (rights) land” in article 38(5) of the DCO. In the book of reference it is described as “Temporary possession and use of land and acquisition of rights over land ...”, it is included in Schedule 5 to the DCO (land in which only new rights etc may be required) and on the special category land plan it is shown as temporary with rights to be acquired permanently. The Applicant is asked to clarify whether it was intended that plot 1/4b should be included in both definitions.

Plots 3/1v, 4/1c, 4/1f, 4/1h, part of 4/2m, 4/7d, 5/1, 5/2 and 5/3a are listed as open space land in Part 5 of the book of reference but unlike all other plots so listed are not included in either definition of “the special category land” or “the special category (rights) land”. Whilst it appears that all these plots are only required temporarily, other plots which are also only required temporarily and are similarly described (e.g. 2/1a) are included in the definition of special category land. The Applicant is asked to clarify the position regarding these plots of land.

Plot 3/2r is listed in the book of reference and shown on the special category land plans as being partly open space land to be acquired and partly replacement land. In the DCO the plot is only included in the definition of “replacement land” but not in the definition of “special category land”. In other similar cases (plots 3/1y, 4/1a, 4/2a, 4/2f, 4/14, 4/15) it is included in both. The Applicant is asked to clarify whether plot 3/2r should also be included in both.

Plots 4/2f, 4/2i, 4/2k, 4/2l are not listed in the book of reference as replacement land and on the plans they do not appear to be shown as replacement land. But they are listed as replacement land (and also as special category land) in the DCO. The Applicant is asked to confirm the status of these plots of land.

The deadline for any response is 17 November 2020.

Responses to the matters outlined in this letter should be submitted by email to A38derbyjunctions@planninginspectorate.gov.uk. Given the coronavirus (COVID-19) emergency, the Planning Inspectorate is currently unable to accept hard copies of consultation responses.

Your response will be published on the project page for the A38 Derby Junctions on the Planning Inspectorate website as soon as possible after the above deadline for response at:

<https://infrastructure.planninginspectorate.gov.uk/projects/east-midlands/a38-derby-junctions/>

This letter is without prejudice to the Secretary of State's decision whether or not to grant development consent for the A38 Derby Junctions, and nothing in this letter is to be taken to imply what that decision might be.

Yours faithfully

Kevin O'Hanlon