

The Planning Inspectorate
Temple Quay House
Bristol
BS1 6PN

Helen Apps
Highways England
Lateral
8 City Walk
Leeds
LS11 9AT

0300 470 2705

05 November 2019

Dear Sir / Madam,

PLANNING ACT 2008

APPLICATION BY HIGHWAYS ENGLAND (“THE APPLICANT”) FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE PROPOSED A19 DOWNHILL LANE JUNCTION SCHEME (“THE SCHEME”)

APPLICATION REFERENCE: TR010024

Further to the Rule 8 letter dated 21 August 2019, we enclose a number of documents in relation to the above application which the Examining Authority (“the **ExA**”) has requested be submitted for Deadline 4 (5 November 2019). This letter sets out a short description of the documents provided, along with our approach in producing them, where relevant.

We also enclose an updated “Application Document Tracker” (**document reference: TR010024/APP/1.4(7)**) including the latest versions of the documents listed below.

Applicant’s comments on additional information/submissions received by Deadline 3

The Applicant’s comments on additional information/submissions received by Deadline 3 are enclosed (**document reference: TR010024/APP/7.21**). These contain the Applicant’s comments on responses by other parties to the ExA’s various questions raised during Open Floor Hearing 2, Issue Specific Hearing 2, the Compulsory Acquisition Hearing, and Issue Specific Hearing 3.

Update on negotiations with Hellens Land Limited (“Hellens Land”)

Further to the Applicant’s update as detailed in the Deadline 3 submission cover letter dated 29 October 2019, the Applicant and representatives from Hellens Land have continued their negotiations. A joint position statement has been agreed between the two parties which sets out the chronology of the parties’ interactions, the options that continue to be explored and the status of discussions. This joint position statement is appended to this cover letter.

As detailed in the joint position statement, and in addition to the agreed options A-C, Hellens Land has also requested that the Applicant reconsider the location of Pond 6 as a means of resolving the future drainage connection across plot 1/7c. The Applicant’s response on this matter is that it is unable to relocate Pond 6 for the following four reasons.

- As set out in the joint position statement, during early design development the Applicant relocated Pond 6 into plot 1/7c, in response to consultation and engagement feedback received from Hellens Land. The purpose of this relocation was to reduce the extent of the scheme's permanent footprint over land to the south of Downhill Lane (East), where Hellens Land has future development aspirations.
- Having subsequently developed the preliminary scheme design, plot 1/7c is now considered the optimum location for Pond 6 from a design, construction and environmental perspective. It represents an efficient use of available land, in a site not in agricultural use. From a biodiversity perspective, the land surrounding Pond 6 will be grassland habitat and may offer a further opportunity for designing water environment ecological benefit close to the River Don.
- Moving Pond 6 south of Downhill Lane (East) would effectively result in the extension of plot 1/7a (permanent land) over plot 1/7b (temporary land). In addition to negatively impacting on the development potential of that land (see point 1 above), the knock-on effect would be to potentially increase the scheme's overall wider footprint, and likewise broaden the extent of land subject to powers of compulsory acquisition. This is because plot 1/7c is of limited use as temporary land for those construction operations planned to be carried out over plot 1/7b. Changing the use of plot 1/7c to temporary construction land may reduce the temporary area of plot 1/14a required for the construction compound, though plot 1/7c is closer to the users of Bridleway B46 who may be adversely affected as a result. The temporary construction area south of Downhill Lane (East) would need a full review potentially requiring more land to the east of the current red line boundary and closer to the residential area at Town End Farm.
- The option to move Pond 6 into plot 1/7b would not necessarily resolve the issue of drainage rights over South Tyneside Council land. This is because the relocated pond would more than likely have to be positioned to the north of plot 1/7b. The land required for the pond and maintenance access may recreate the same issue over the extended plot 1/7a – note that the ownership of plot 1/7a is planned for transfer to South Tyneside Council.

It is the Applicant's position that no further Compulsory Acquisition Hearing is required to consider the interests of Hellens Land, for four reasons.

- First, for the reasons outlined above it would not be appropriate or proportionate to give any further consideration to the relocation of Pond 6, noting the lengthy technical assessments this could entail, and that nearly three months of the examination period has already expired.
- Second, as detailed in the joint position statement, a range of other feasible solutions have been identified by the parties and these will continue to be explored. Each one is deliverable by the Applicant, but none of the options can be settled upon or discounted prior to the end of the examination period. As such, a further hearing cannot change this fundamental position.
- Third, South Tyneside Council's current position – that the Applicant cannot transfer land to the Council which is subject to a pre-agreed third party right – does not prejudice the same right being granted by South Tyneside Council in the future. That would be a matter for resolution following publication of the Local Plan and in conjunction with a future planning application.
- Fourth, the Applicant draws the ExA's attention to the paragraph 4.10 of the Written Submissions of the Applicant's case put orally at the Compulsory Acquisition Hearing (**document reference: TR010024/APP/7.19**). This already articulates the Applicant's position on the compelling case in

the public interest for its acquisition of plot 1/7c, in the unexpected event that none of options A-C in the joint position statement could be achieved. In those circumstances, the drainage connection would have to be agreed between Hellens Land and South Tyneside Council at the point in time of a future planning consent. A further hearing is unable to elaborate on this position.

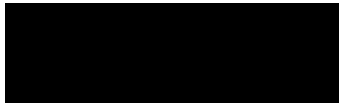
Update on discussions with IAMP LLP

The Applicant and representatives from IAMP LLP continue to make good progress with respect to completion of the Statement of Common Ground. The two parties expect this to be signed in mid-November and submitted to the ExA no later than Deadline 5. In short, this remains on track with the position as reported at the recent hearings.

Update on discussions with the local authorities

The Applicant confirms that the joint local authority Statement of Common Ground as submitted at Deadline 3, and the private Side Agreement (relating to the adoption of roads), have now been fully agreed. These documents are awaiting execution and the Applicant will update the ExA upon their completion, at which point the signed Statement of Common Ground will be submitted to the Inspectorate. This is expected to take place in the next few days, and in advance of Deadline 5.

Yours faithfully



Helen Apps
Project Manager

A19DownhillLaneJunctionImprovement@highwaysengland.co.uk

ANNEX 1: EXPLANATION FOR CHANGES TO DRAFT DCO

ARTICLE	EXPLANATION FOR CHANGE
Article 2 – definition of “maintain”	Further to the ExA’s suggestion at ISH3, the definition has been amended to make clear that “maintain” is limited to works which do not give rise to materially new or materially different environmental effects (as compared with those in the environmental statement).
Article 2 – definition of “Testo’s plans”	Further to the ExA’s suggestion at ISH3, the definition has been amended to include a reference to the application document number and, further, has been amended to make clear that it will be a document which is certified for the purposes of the A19/A184 Testo’s Junction Alteration Development Consent Order 2018 (see further commentary on article 41(4) below).
Article 6(2)	Further to the ExA’s suggestion at ISH3, this paragraph has been inserted to make clear the procedure set out in Part 2 of Schedule 2 of the dDCO is to apply to an application for certification under Article 6(1).
Article 30	<p>Further to the ExA’s suggestion at ISH3, article 30(2) has been amended to make clear that the Applicant is able to take temporary possession of Plot 1/14b notwithstanding the Testo’s construction compound is being utilised (i.e., the Applicant has taken temporary possession of Plots 2/1, 2/2a, 2/2) provided that construction activities are not being carried out on Plot 1/14b. The justification for this is set out in the Applicant’s Written Summary of Oral Submissions at ISH3 (TR010024/APP/7.20) but in summary, the intention is to curtail the works carried out on Plot 1/14b rather than the temporary possession powers.</p> <p>The Applicant has further inserted paragraph (3) to provide a definition for “construction activities”. The definition makes clear that any material operations would not be permitted in the event that the Testo’s construction compound was being utilised for the purposes of the Scheme.</p>

<p>Article 41(4)</p>	<p>The provision has been amended to make clear that the revised Testo's plans are to be certified for the purposes of the A19/A184 Testo's Junction Alteration Development Consent Order 2018. This complements the existing amendment to article 40 of that Order contained in Schedule 8 to the dDCO.</p>
<p>Articles 30(1), 36(1), 41(4)</p>	<p>Insertion of footnotes referencing the A19/A184 Testo's Junction Alteration Development Consent Order 2018.</p>
<p>Schedule 9</p>	<p>The schedule of certified documents has been amended to:</p> <ul style="list-style-type: none"> - Remove reference to the "Environmental Statement – Addenda" on the basis this document has been withdrawn. - Update references to the Book of Reference and the Engineering Drawings and Sections on the basis that these documents have been updated.

