

**Application by Highways England for  
A19 Downhill Lane Junction Improvement**

**The Examining Authority's (ExA)  
Draft Development Consent Order (DCO) / DCO Commentary**

**Schedule of ExA's recommended amendments to the Applicant's draft DCO  
Revision 5 - 29 October 2019 [REP3-005]**

Reference.	Text as set out in draft DCO Revision 5 [REP3-005]	ExA's Recommended Amendment	Reason and Notes
<b>Art 7(2)</b>	<i>(2) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.</i>		See ExQ2.5.1.
<b>Art 29(9)</b>	<i>... (9) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from— (a) acquiring new rights over any part of that land under article 23 (compulsory acquisition of rights); or (b) acquiring any part of the subsoil (or rights in the subsoil of or airspace over) that land under article 27 (acquisition of subsoil or airspace only).</i>	<i>... (9) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from— <del>(a) acquiring new rights over any part of that land under article 23 (compulsory acquisition of rights);</del> <del>or</del> <del>(b) acquiring any part of the subsoil (or rights in the subsoil of or airspace over) that land under article 27 (acquisition of subsoil or airspace only).</del></i>	This change is proposed in order to exclude the power to compulsorily acquire undefined new rights in land listed and described as being for temporary possession in Schedule 6.  See also ExQ2.5.3.
<b>Art 30</b>	<i>(1) The undertaker may only enter on and take temporary possession</i>	<i>(1) The undertaker may only enter on and take temporary possession</i>	The proposed change reflects the lack of justification for the temporary



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	<p><i>of the land identified as plot reference 2/1, 2/2a and 2/2b shown on the land plans for the purposes of the authorised development if the development authorised by the A19/A184 Testo's Junction Alteration Development Consent Order 2018(b) (the "Testo's Order") has commenced and the main construction compound referred to as Work No. 31 in Schedule 1 to the Testo's Order has not been vacated at the commencement of development authorised by this Order.</i></p> <p><i>(2) Where the undertaker is in possession of the land identified as plot reference 2/1, 2/2a and 2/2b on the land plans for the purposes of the authorised development, the undertaker may enter upon and take temporary possession of the specified land for the purposes of the authorised development provided it does not carry out construction activities on that land.</i></p> <p><i>(3) In this article— "construction activities" means any material operation (as defined in</i></p>	<p><i>of the land identified as plot reference 2/1, 2/2a and 2/2b shown on the land plans for the purposes of the authorised development if the development authorised by the A19/A184 Testo's Junction Alteration Development Consent Order 2018(b) (the "Testo's Order") has commenced and the main construction compound referred to as Work No. 31 in Schedule 1 to the Testo's Order has not been vacated at the commencement of development authorised by this Order.</i></p> <p><i>(2) Where the undertaker is in possession of the land identified as plot reference 2/1, 2/2a and 2/2b on the land plans for the purposes of the authorised development, the undertaker may <u>not</u> enter upon and take temporary possession of the specified land <u>or carry out construction activities on that land.</u></i> <del><i>for the purposes of the authorised development provided it does not carry out construction activities on that land.</i></del></p> <p><i>(3) In this article—</i></p>	<p>possession of Plot 1/14b in the event that Plots 2/1, 2/2a and 2/2b were to be used.</p> <p>See also ExQ2.5.4.</p>



Reference.	Text as set out in draft DCO Revision 5 [REP3-005]	ExA's Recommended Amendment	Reason and Notes
	<p><i>section 56(4) of the 1990 Act) proposed under this Order; and "the specified land" means the land identified as plot reference 1/14b shown on the land plans.</i></p>	<p><i>"construction activities" means any material operation (as defined in section 56(4) of the 1990 Act) proposed under this Order; and "the specified land" means the land identified as plot reference 1/14b shown on the land plans.</i></p>	
<b>Art 36</b>	<p><i>(1) The A19/A184 Testo's Junction Alteration Development Consent Order 2018(c) is amended in accordance with Schedule 8, where—</i>  <i>(a) column 1 sets out where the amendment is to be made;</i>  <i>(b) column 2 sets out how the amendment is to be made; and</i>  <i>(c) column 3 sets out the text to be substituted, inserted or omitted.</i></p>	<p><i>(1) The A19/A184 Testo's Junction Alteration Development Consent Order 2018(c) (the "Testo's Order") is amended in accordance with Schedule 8, where—</i>  <i>(a) column 1 sets out where the amendment is to be made;</i>  <i>(b) column 2 sets out how the amendment is to be made; and</i>  <i>(c) column 3 sets out the text to be substituted, inserted or omitted.</i></p> <p><i><u>If any part of Work No. 4 or Work No. 6 of the Testo's Order have commenced on the date this Order is made article 36(1) will not apply.</u></i></p>	<p>This proposed change seeks to ensure that the proposed changes to the Testo's scheme are only implemented provided that work on the original Testo's NMU scheme has not commenced. This is intended to ensure that the A19 Downhill Lane Junction Scheme's proposals for NMU users would not be prevented from implementation and would remove the uncertainty which could arise in the unlikely event that Works 4 and 6 of the Testo's scheme had commenced.</p> <p>See also ExQ2.5.5.</p>
<b>Schedule 1</b>	<p><i>"In connection with the construction of any of these works, further development within the Order limits consisting of...</i></p>	<p><i>"In connection with the construction of any of these works, further development within the Order limits consisting of...</i></p>	<p>Separation of the text is required so that the final statement applies to (a) – (o) as well as (o).</p>



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	<p>(o) such other works, working sites storage areas, works of demolition or works of whatever nature, as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the construction, operation or maintenance of the authorised development which do not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement"</p>	<p>(o) such other works, working sites storage areas, works of demolition or works of whatever nature, as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the construction, operation or maintenance of the authorised development <del>which do not give rise to any materially new or materially different environmental effects to those assessed in the</del> environmental statement"</p> <p><i><u>but only insofar as they do not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement."</u></i></p>	