



The Planning Inspectorate

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To Interested Parties and Statutory
Parties invited to the Preliminary
Meeting

Your Ref:

Our Ref: TR010024

Date: 20 December 2019

Dear Sir/ Madam

The Planning Act 2008 – Section 89 and The Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 8(3) Rule 9 and Rule 17

Application by Highways England for an Order Granting Development Consent for the A19 Downhill Lane Junction Improvement

Procedural Decisions: Request for Further Information and Amended Examination Timetable

I am writing to you to advise of procedural decisions taken by the Examining Authority (ExA) in respect of a request for further information and changes to the Timetable for the A19 Downhill Lane Junction Improvement Examination.

You have received this letter because the law requires that where an Examination Timetable is changed, all persons already involved in the Examination together with all persons entitled to be notified of the acceptance and Examination arrangements for the application must be notified.

This letter provides you with Procedural Decisions about the Examination process in respect of a request for further information, (**Annex A**), and an amended Examination Timetable.

Procedural Decisions to support the variation to the timetable are set out in the balance of this letter.

Procedural Decisions

Among the Procedural Decisions I made in my letter of 12 November was to vary the Examination Timetable. This amended the submissions required to be provided at D5, D6 and D7 while deleting D8 as set out in my Rule 8 Letter. Consequently, I identified the final Deadline to be D7 on Thursday 12 December. I also indicated that following D7 there was a possibility of closing the Examination before the end of the six-month period.

Request for Further Information

The submissions made by the Applicant at D5 raise issues which I consider to be both important and relevant to the Examination. I am therefore making a written request under Rule 17 of the Examination Procedure Rules for the Applicant to respond to the specific questions I have which are set out in **Annex A** to this letter. I am also inviting Interested Parties (IPs) to review the Applicant's D5 submissions and in particular the Applicant's response to the Q2.5.5 in the ExA's Second Written Questions [REP5-016].

Amended Examination Timetable

I am requesting a response from the Applicant by **12.00 noon on Tuesday 7 January 2020**. Any comments which any IP wishes to make on the Applicant's response to my additional questions, together with any comments on the Applicant's response to Q2.5.5 in the ExA's Second Written Questions [REP5-016] should be provided by **12.00 noon on Tuesday 14 January**. Electronic submission should be sent to A19DownhillLaneJunction@planninginspectorate.gov.uk

Parties who are not comfortable with making submissions electronically are welcome to make their submission by post.

Following the deadline of 14 January, if I am satisfied that all relevant matters have been addressed and discussed I would write to all Interested Parties to inform them that the Examination had been completed.

Should you have any queries regarding the content of the letter, please contact the case team using the details at the top of this letter.

I remain committed to working with all parties in the examination of this application.

Yours faithfully

Kevin Gleeson

Examining Authority

Annex A Questions for the Applicant

Annex B Amended Examination Timetable

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Questions for the Applicant

With particular reference to the Applicant's response to Q2.5.5. at Deadline 5 [REP5-016] the Applicant is asked to respond to the following questions.

On the submission Land Plans [APP-007] (Sheet 1 of 2) the notation for the area shaded blue indicated '*Rights of Way permanently extinguished or reinstated (see Note 5).*' Note 5 on the LP stated '*Land over which public rights of way are proposed or proposed to be extinguished under the A19/184 Testo's Junction Alteration DCO 2018, are to be extinguished or reinstated under this Scheme. See in particular application documents TRO10024/APP/7.5 for further details.*' The reference is to Examination document [APP-054] which is the Revised Plans, Drawings and Sections for the Testo's Scheme.

The D5 version [REP5-003] shows the same area shaded blue with the notation altered to read '*Land over which public rights of way are to be extinguished in order to integrate the proposals with the A19 Testo's scheme in accordance with Article 38 of the DCO.*' Note 5 from the submission version has now been deleted.

- 1. Clarify why it is proposed to extinguish public rights of way within the area shaded blue on the Land Plans [REP5-003] (Sheet 1 of 2) when there is an existing Bridleway – Public Right of Way (B46) running through the area and which it is proposed to retain. Please explain where in the dDCO the power to extinguish the Public Rights of Way over the land shaded blue on the DLJ Land Plans is contained?**

The Applicant has acknowledged that a further part of Bridleway B46 would need to be stopped up associated with the implementation of Work No. 6 in the Testo's DCO which is currently under way. The proposed stopping up is between points 1/8 and 1/9 as shown on the Streets Rights of Way and Access Plans (revised D5 version [REP5-004]) in addition to that between points 1/7 and 1/8/.

- 2. Under which DCO powers is it proposed to stop-up part of Bridleway B46 between points 1/8 and 1/9 in addition to between points 1/7 and 1/8? Would the Applicant confirm the scope of this proposed change i.e is it minor, material or non-material? Has consultation been undertaken in respect of this proposed change? If not, why not?**

Testo's Work No. 6 which is currently being implemented provides for the construction and realignment of part of Bridleway B46 between points 1/7 and 1/9 on Sheet 1 of the Streets, Rights of Way and Access Plans [REP5-014]. DLJ Work No 14 provides for the improvement to the existing Bridleway B46 '*from the site boundary to the proposed Downhill Lane (East) non-motorised user crossing facility, as shown between points 1/21 and 1/19 on the Streets, Rights of Way and Access Plans*' [REP5-004].

- 3. Does either DCO provide for the improvement of Bridleway B46 between points 1/21 and 1/7? If not, why not?**

In the Applicant's response to Q2.5.5. at Deadline 5 [REP5-016] there are a number of references to works being reversed including that, as a consequence of the implementation of Work No. 6 *'it is now not necessary to reverse the stopping up of Bridleway B46 between points 1/7 and 1/8'*. Similarly, reference is made to extinguishing rights for example *'the part of the B46 which is proposed to be extinguished under the made Testo's Order will accordingly, always need to be stopped up'* and *'the extinguishment of the public right of way over the B46 proceeds as per the Testo's made Order'*. Reference is also made to the Testo's Order containing the necessary ancillary powers to deal with *'un-doing'* any partially completed element of Work No. 4.

- 4. Clarity is sought about the use of 'reverse', 'extinguish' and 'un-doing'. Would the ancillary powers in the Testo's Order be sufficient to ensure that the on-site conditions were returned to those which existed, prior to Work No. 4 commencing?**

The change to the Streets Rights of Way and Access Plans is described as *'Removal of the part of the B46 which was previously proposed to be reinstated. This is now shown as extinguished under the Testo's Order (as originally anticipated under that Order).'*

- 5. The Applicant is asked to clarify the comment above.**

Item	Matters	Due Dates
1	<p>Previous Items</p> <p>Items 1 – 16 of the approved Examination Timetable published on Wednesday 21 August 2019 and amended on Tuesday 12 November 2019 have been delivered as per that Timetable and are not repeated here.</p>	<p>All items from 13 August 2019 to 12 December 2019</p>
17	<p>Deadline 8</p> <p>For receipt by ExA of:</p> <ul style="list-style-type: none"> • Applicant's response to ExA's request for further information • comments on any additional information/submissions received by Deadline 7 	<p>Tuesday 7 January 2020</p> <p>(12 noon)</p>
18	<p>Deadline 9</p> <p>For receipt by ExA of:</p> <ul style="list-style-type: none"> • comments on Applicant's response to ExA's request for further information • comments on any additional information/submissions received by Deadline 8 	<p>Tuesday 14 January 2020</p> <p>(12 noon)</p>