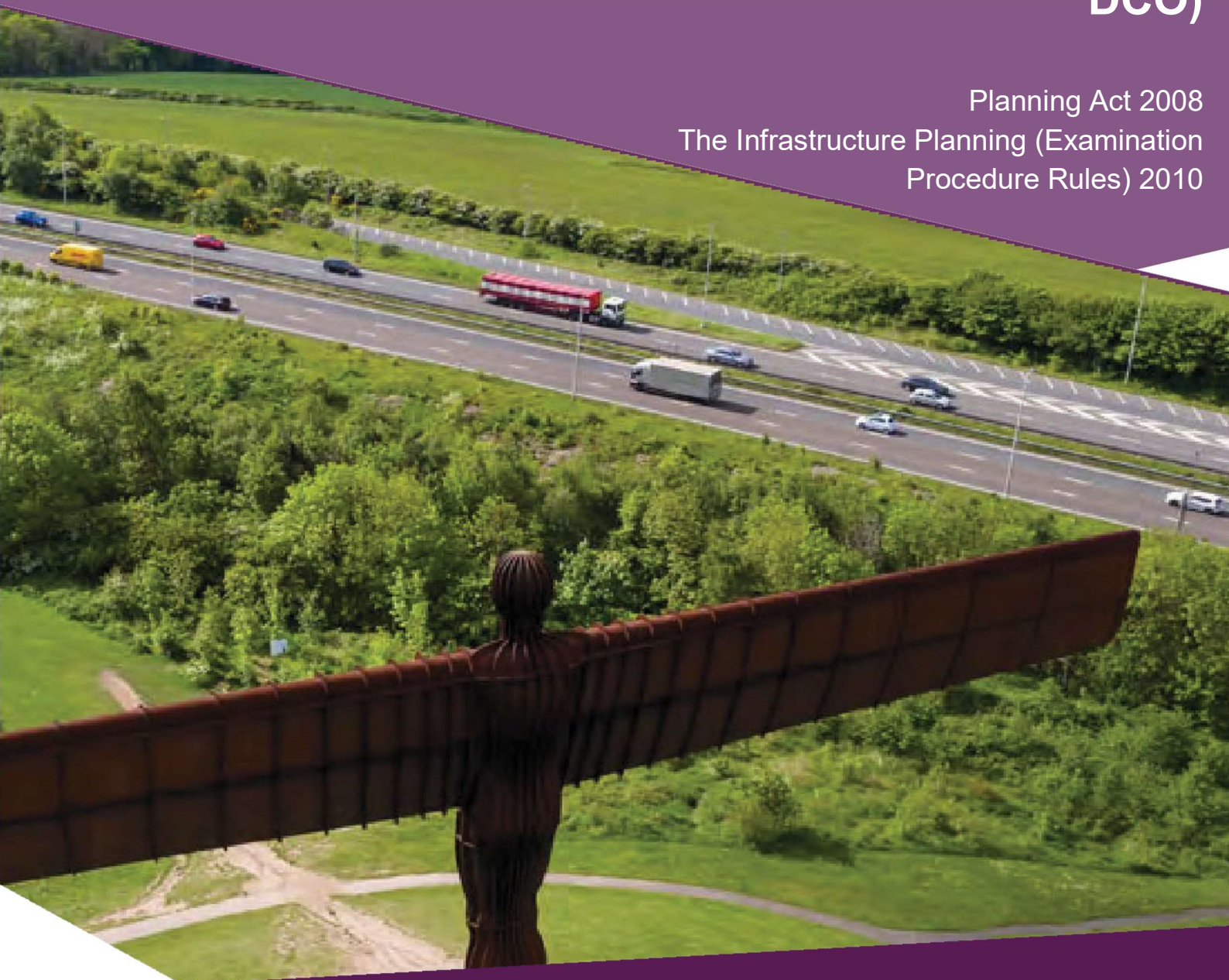


A1 Birtley to Coal House

Scheme Number: TR010031

EXA/D1/003 Written Submission of Oral Case for Issue Specific Hearing 1 (Draft DCO)

Planning Act 2008
The Infrastructure Planning (Examination
Procedure Rules) 2010



Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Examination Procedure Rules) 2010**

**The A1 Birtley to Coal House
Development Consent Order 20[xx]**

Written Submission of Oral Case for ISH1

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| Planning Inspectorate Scheme Reference | TR010031 |
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| Author: | A1 Birtley to Coal House Project Team, Highways England |

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1 INTRODUCTION

- 1.1.1 On 14 August 2019 an application having reference number TR010031 (“Application”) was made by Highways England (the “Applicant”) to the Planning Inspectorate (the “Inspectorate”) under the Planning Act 2008 (the “2008 Act”) for a Development Consent Order (DCO). If made, the DCO would grant consent to the Applicant to undertake the A1 Birtley to Coal House (the “Scheme”).
- 1.1.2 On 10 September 2019, the Inspectorate confirmed that the Application had been accepted for Examination.
- 1.1.3 An Issue Specific Hearing (ISH1) on the Draft DCO was held on 21 January 2020. This document provides a written submission of the Applicant’s oral case during the hearing to the Examining Authority’s (the “ExA”) questions as set out in Table 2.1.

1.2 Structure of this document

- 1.2.1 This document is set out as follows:
- **Chapter 2** –Applicant Response to ExA questions during ISH1
 - **Appendix A** – Justification of ancillary works provided in Schedule 1 of the Draft DCO [APP-013].
 - **Appendix B** – Extract of TPO No.21

2 APPLICANT RESPONSE TO ExA QUESTIONS DURING ISH1

| ISH1 | Question to: | Question: | Response: |
|---------------------------------|---------------|--|---|
| Article 2 Interpretation | | | |
| | The Applicant | The Applicant is asked to justify the wide range of terms to be used in the definition of "commencement" | <p>The Applicant has adopted the definition of "commencement" from the Town and Country Planning Act 1990 ("TCPA 1990"), as opposed to the Planning Act 2008 ("PA 2008"). Section 155 PA 2008 does not contain the same level of helpful definition of matters that might constitute a "material operation" that is contained in the TCPA 1990.</p> <p>The operations excluded from the definition of commencement are intended to result in the operative elements of the requirements only having effect after the commencement of enabling works. This is to ensure the application of the requirements is proportionate to the works being carried out.</p> <p>The Applicant has undertaken to review those elements which are excluded from the definition of "commencement" so that prior approval of matters such as the undertaking of archaeological is not inadvertently prevented from requiring approval. The Applicant will also review in particular the terms: site clearance, demolition works, investigation of ground conditions, diversion and laying of services and erection of temporary means of enclosure.</p> <p>This will be addressed in the next iteration of the draft Development Consent Order ("dDCO") [APP-013].</p> |
| | The Applicant | The Applicant is asked to justify | The Applicant submits that this is not a wide definition as it is fundamentally constrained by the words "to the extent assessed in the environmental |

| ISH1 | Question to: | Question: | Response: |
|------|----------------------|--|---|
| | | <p>the wide definition of “maintain” and provide examples.</p> | <p>statement”. The justification for allowing maintenance is to enable such works to be done (to the extent assessed within the environmental statement) without varying or seeking modification of the Order.</p> <p>The Examining Authority (“ExA”) drew particular attention to the word “replace”. This is important as part of the definition since the expression “maintenance” could include works such as replacing a gantry or beam as part of a supporting structure. These are entirely normal activities as part of maintenance of a modern strategic highway.</p> |
| | <p>The Applicant</p> | <p>The Applicant is asked that the definition of “environmental statement” should allow for environmental information that comes to light during the examination process be submitted.</p> | <p>The Applicant submitted that the reference to the Environmental Statement (“ES”) in the Order was correct at the point of application.</p> <p>The ES referred to in the application has already been updated by environmental information contained in the following document:</p> <p>Additional Submission – 6.1 Environmental Statement: Addendum [AS-016] This document will be incorporated in the definition of the environmental statement in the next iteration of the dDCO [APP-013].</p> <p>At the conclusion of the examination it is assumed that the ExA’s recommendation to the Secretary of State will be based on the environmental information then before the examination, including the ES and any addenda submitted at that stage.</p> |
| | <p>The Applicant</p> | <p>The Applicant is asked to justify the wide definition of</p> | <p>The term “street” has been in use for a considerable time, having been most recently enacted in the New Roads and Street Works Act 1991.</p> <p>The term street deliberately has a wider definition than “highway” (including</p> |

| ISH1 | Question to: | Question: | Response: |
|---|----------------------|--|--|
| | | <p>“street” which is taken from the New Roads and Street Works Act 1991.</p> | <p>private streets and accesses) and there are numerous examples within the project which are captured by this definition, for example the Bowes Incline.</p> <p>Importantly the “street authority” is not necessarily the highway authority. Instead, it could be the private owner of the way in question.</p> <p>This is important in relation to the definition because the highway authority is not then assuming responsibility for decision of ways on private land – that responsibility is retained by the owner.</p> |
| | <p>The Applicant</p> | <p>The Applicant is asked to define “business days”</p> | <p>The Applicant agree that a definition of “business days” is required and will include the definition in the following (derived from The National Grid (Hinkley Point C Connection Project) Order 2016):</p> <p><i>“business day” means Monday to Friday excluding Bank Holidays and other public holidays;</i></p> |
| <p>Article 3 Development Consent etc. granted by the Order</p> | | | |
| | <p>The Applicant</p> | <p>The Applicant is asked to justify the words in Article 3(2) “applying to land within or adjacent to the Order limits”</p> | <p>The Applicant submits that the drafting is included within other Highways England Orders and refers to land which is adjacent rather than merely proximate to the order limits for the purposes of ensuring that where legislation applies to land adjacent to order limits, that legislation is interpreted consistently with the Order.</p> <p>This deals with matters such as application of the order to calculation of compensation under the compensation code where adjacency is relevant.</p> |
| <p>Article 7 Limits of Deviation</p> | | | |

| ISH1 | Question to: | Question: | Response: |
|------|---------------|---|---|
| | The Applicant | The Applicant is asked to clarify why the vertical and horizontal limits of deviation is required to be up to 1 metre | <p>The Applicant notes that this is a Scheme which is located within an undulating area and therefore it is necessary to allow flexibility of design to enable tolerances of design for elements such as the surface of carriageways.</p> <p>However, soffit levels will of course, need to be consistent to ensure clearances, such in areas such as Kingsway Viaduct or Allerdene Bridge in order to protect the kinematic envelope in each case.</p> <p>The assessment of the Scheme has taken into consideration an envelope including the maximum limits of deviation – the <i>Rochdale Envelope</i>. As a result, the impacts have been fully considered and to the extent that there has been found to be adverse effects, appropriate mitigation has been identified.</p> <p>Accordingly, there is no reason not to allow the deviation proposed.</p> |
| | The Applicant | The Applicant is asked to explain the effect of the tailpiece to the Article, allowing the Secretary of State to disregard the limits of deviation. | <p>The final part of the Article allows for the agreed limits to be exceeded where the Secretary of State (in consultation with the relevant planning authority) certifies that deviation would not give rise to any materially new or materially worse effects and this is to take into account of technological changes not known at this stage.</p> <p>This means that deviation is permitted if the environmental impacts remain within the assessed <i>Rochdale Envelope</i>, and it is not necessary to amend the DCO accordingly. This does not avoid the provisions in the PA 2008 that provide for the amendment of the DCO since if an amendment is within the assessed <i>Rochdale envelope</i> it is within the Order.</p> |

| ISH1 | Question to: | Question: | Response: |
|---|----------------------|---|--|
| | | | <p>The A19/A184 Testo's Junction Alteration Development Consent Order 2018 contains the words "materially new or materially different" environmental effects in comparison with those reported in the environmental statement", rather than those in the dDCO. The Applicant has concluded that the Testo's Junction formulation is to be preferred and will be included in the next iteration of the dDCO wherever it occurs.</p> |
| <p>Article 13 Construction and maintenance of new, altered or diverted streets</p> | | | |
| | <p>The Applicant</p> | <p>The Applicant is asked to amend article 13(4) to say "serve" not "service"</p> | <p>The Applicant agrees and will include the amendment in the next iteration of the dDCO [APP-013].</p> |
| <p>Article 14 Classification of roads etc.</p> | | | |
| | <p>The Applicant</p> | <p>The Applicant is asked to consider Article 14(3) which states that "the application of paragraphs (1) and 2) may be varied or revoked by any instrument made under any enactment which provides for the variation or</p> | <p>The relevant power for the inclusion of this provision is contained in s.125 Planning Act 2008. The DCO itself is not making the power but it is including the provisions of s.120 (5) PA 2008, which provides that a DCO may "apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order."</p> <p>This means that since the relevant extant traffic regulation orders may be applied to the Scheme, they may (indeed must) be capable of amendment under the relevant statutory provisions under which they were imposed, and not under the PA 2008.</p> <p>It would be disproportionate if a new DCO or a variation order was required to amend the <i>extant</i> traffic regulation orders on the Scheme.</p> |

| ISH1 | Question to: | Question: | Response: |
|---|---------------|---|--|
| | | revocation of such matters” There is precedent for this approach in the A19/A184 Testos Junction Improvement Order. Is it just s.5(3) of the Planning Act 2008 which provides for this power or is it also s.120 Planning Act 2008? | |
| Article 15 Temporary stopping up and restriction of use of streets | | | |
| | The Applicant | The Applicant is asked to amend paragraph (7) of Article 15 to state “paragraph (5)” rather than “paragraph 4” | The Applicant agrees and will include the amendment in the next iteration of the dDCO [APP-013]. |
| Article 18 Modification of road traffic regulation orders | | | |

| ISH1 | Question to: | Question: | Response: |
|------|---------------|--|---|
| | The Applicant | <p>The Applicant is asked to give clarification on this Article and any precedent for it. The Applicant is also asked to provide details of the relevant consultees.</p> | <p>It is not understood that this device has been used in a precedent development consent order.</p> <p>However, there are a number of road traffic regulation orders in place applying to the existing alignment and road to be altered by the Scheme. These deal <i>inter alia</i> with speed limits, urban clearways and restrictions on the width of vehicles using the inside lane.</p> <p>In relation to a similar matter, the <i>Testo's Junction</i> DCO provided for an order-making power. However, in this case it is beneficial to cause as little variation to the existing traffic order regime as possible.</p> <p>So, because of the need to maintain these regulations on the improved stretch of highway, the optimum solution is to use the DCO as a means of applying the existing road traffic regulation order to the length of the relevant A1 trunk road as realigned by the Order pursuant to s.120(5) PA 2008.</p> <p>The statutory consultees are the relevant parties listed in Schedule 9 of the Road Traffic regulation Act 1984 and Regulations 6 and 7 of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996, including:</p> <ul style="list-style-type: none"> • The chief officer of police of the relevant police area; • The Freight Transport Association; |

| ISH1 | Question to: | Question: | Response: |
|--|---------------|---|--|
| | | | <ul style="list-style-type: none"> • The Road Haulage Association; • Such other organisations representing persons likely to be affected by any provision in the order as the order making authority thinks it appropriate (which would usually include the relevant NHS Foundation Trust and the Fire and Rescue Authority); <p>There is also a consultation procedure for the general public set out in Regulation 7 of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 which requires notices in a local newspaper, the London Gazette and on site.</p> <p>Of the above consultees, it is notable that the police authority and Fire and Rescue Authority have been consulted in relation to the Application. To the extent that other bodies may be interested in the Scheme as it relates to traffic regulation, as a matter of general notice, the Scheme has been well-publicised. As to the consequence of them not being consulted directly, there is no material change to the existing regime and hence not need for them to be consulted.</p> |
| Article 21 Protective work to buildings | | | |
| | The Applicant | The Applicant is asked to provide details of any buildings within or without the Order limits | <p>The term "building" is given the same meaning as in the TCPA 1990. In s.336 of that Act, the term is defined as including "any structure or erection, and any part of a building as so defined, but does not include plant or machinery comprised in a building".</p> <p>As such, the term can include elements such as bridges or other</p> |

| ISH1 | Question to: | Question: | Response: |
|--|---------------|---|---|
| | | which may require the benefit of protective works. | components associated with the Scheme. As such, whilst it is not necessary or appropriate to pre-empt the need for protective works, the inclusion of the provision is appropriate on a protective basis. |
| Article 33 Temporary use of land for maintaining the authorised development | | | |
| | The Applicant | The Applicant is asked to give an understanding of how this Article will work, who makes the decisions on whether this power will be used and is there a framework on how these decisions are made. | <p>The decision on whether to use this power has to devolve upon the Applicant, since it is for the maintenance of the Applicant's Scheme that the power is included.</p> <p>This is a widely precedented, and not extensive power. It is heavily constrained to matters of safety and does not affect property or occupied land. Constraints (Art.33(2)) include that the Applicant would not be able to take possession of any house or garden belonging to a house, or any other occupied building.</p> <p>The process for exercising the power is, in summary:</p> <ul style="list-style-type: none"> • The Applicant determines that access to land for maintenance purposes is required; • Except in case of risks to safety, the Applicant has to give 28 days' notice of its intended entry upon the owners and occupiers of the land; • The undertaker takes access and may remain in occupation for so long as is reasonably necessary; • All temporary works must then be removed, and the land restored to the reasonable satisfaction of the owners of the land; and • Compensation may be claimed by the owners and occupiers for loss or damage suffered. |

| ISH1 | Question to: | Question: | Response: |
|--|----------------------|---|---|
| | | | <p>The Applicant believes that there are very few examples of instances where this power has been used in practice. However, it is a widely precedented provision which has existed in statutory orders since before the modern NSIP process.</p> |
| <p>Articles 34 and 35 Statutory undertakers and Apparatus and rights of statutory undertakers in stopped up streets, public rights of way and private means of access</p> | | | |
| | <p>The Applicant</p> | <p>The Applicant is asked if the Secretary of State would only be able to authorise articles 34 and 35 is he/she is satisfied that the provisions in s.127 and s.138 have been satisfied.</p> | <p>The Applicant submits that this is correct.</p> |
| <p>Article 37 Felling or lopping of trees and removal of hedgerows</p> | | | |
| | <p>The Applicant</p> | <p>General power which disapplies the hedgerow regulations.</p> | <p>There are no “important hedgerows” within the Order limits as defined in the Hedgerow Regulations 1997. As such, there is no need for a specific schedule setting out the hedgerows to be removed.</p> |

| ISH1 | Question to: | Question: | Response: |
|---|--------------------------|---|---|
| | | <p>There is no schedule in the DCO setting out the hedgerows to be removed or a provision which provides for agreement to be sought in writing before removal. Is this necessary?</p> | <p>The applicant submits that the provision is necessary for the purposes of managing vegetation for the construction or operation of the Scheme.</p> |
| Article 38 Trees subject to tree preservation orders | | | |
| | <p>Gateshead Council</p> | <p>The LPA is asked if the relevant TPO in Schedule 9 of the Order is correct. It is for the LPA to provide representations as they wish. Area number 21 located adjacent to Banesley Lane. Is this the</p> | <p>The relevant TPO is appended to this submission as Appendix B.</p> |

| ISH1 | Question to: | Question: | Response: |
|--|---------------|---|--|
| | | proper reference and is it the case that this is the only one? | |
| Article 39 Scheduled monuments | | | |
| | The Applicant | The Applicant is asked if it necessary to include this Article in the Order? | <p>The agrees with the Inspector that this Article is not strictly necessary because of the application of s.33(1g) PA 2008, which provides that in England there is no need for a consent under s.35 Ancient Monuments and Archaeological Areas 1979. The dDCO itself automatically applies <i>qua</i> scheduled monument consent.</p> <p>However, this Article and Section 10 state exactly which interference is actually authorised, and as such are appropriate for inclusion so that the extent of the authorised works to the scheduled monument is properly interpreted.</p> |
| Schedule 1 Authorised Development | | | |
| | The Applicant | <p>a. Justification for necessity of listed works.</p> <p>The ExA asked for the inclusion of the works described in the</p> | <p>The response to this question is contained in Appendix A to this submission.</p> <p>In each case, the Examining Authority will note that the inclusion of a general power is necessary to assure delivery of the Scheme pursuant to the Application. Furthermore, owing to the inclusion of the device at the end of the <i>coda</i> referencing the environmental effects of such works, the <i>Rochdale Envelope</i> is applied and the assessed limits of the Scheme contained in the Application cannot be exceeded.</p> |

| ISH1 | Question to: | Question: | Response: |
|--------------------------------|---------------|---|---|
| | | <i>coda</i> to the scheduled works at page 35 of the dDCO to be justified. | |
| | The Applicant | Associated development | <p>The ExA requested confirmation as to the elements of the scheduled works that comprise associated development. The Applicant notes that this question has also been asked in the First Written Questions comprised in the Rule 8 letter and will respond in full in its response to those questions.</p> <p>The reference to matters being environmentally acceptable will be adapted in the next iteration of the dDCO as set out above by reference to matters “materially different” to those assessed.</p> |
| | The Applicant | The ExA asked whether the words “and associated development” had been omitted on Page 25 of the Explanatory Memorandum [APP-014]. | The Applicant agrees and will include the amendment in the next iteration of the Explanatory Memorandum. |
| Schedule 2 Requirements | | | |
| | The Applicant | The Applicant is asked to look at | The Applicant agrees and will include the amendment in the next iteration of the dDCO [APP-013]. |

| ISH1 | Question to: | Question: | Response: |
|------|----------------------|--|--|
| | | <p>the definition of “European protected species” and amend the reference to Conservation of Habitats and Species Regulations 2010 to the 2017 Regulations.</p> | |
| | <p>The Applicant</p> | <p>The Applicant was requested to consider the need for design drawings in respect of highway furniture and other elements of the Scheme.</p> <p>The wording relating to “materially new or materially</p> | <p>There is no requirement for design drawings in respect of subsidiary elements of highway furniture. The final, approved design under Requirement 3 can accord with the Scheme design shown on the engineering drawings and sections without such detail. This type of planning judgement is frequently exercised by planning officers (upon whose advice the discretion to take action were the design not to accord with the Scheme design would rely) and is capable of being exercised by the Secretary of State in like manner.</p> <p>The proposed amendment to the text relating to environmental effects is addressed above.</p> |

| ISH1 | Question to: | Question: | Response: |
|------|---------------|--|---|
| | | worse environmental effects” was questioned. | |
| | The Applicant | The Applicant is asked to provide references to where the process for agreement with the local authority is found in respect of Requirement 4(2)(c)(vii). | This is likely to be an informal consultative process that is managed between ongoing dialogue with the Applicant and relevant local planning authority. It is in line with the normal approach to a relaxation of this nature under a planning permission and is not in of itself an express statutory process. |
| | The Applicant | <p>The term “relevant planning authority” was queried.</p> <p>The Applicant is asked to confirm that the list of management plans in Requirement 4 is the same as in the CEMP.</p> <p>The need for</p> | <p>The use of the Secretary of State as approving authority is normal in relation to Highways England’s schemes.</p> <p>The term “relevant planning authority” is appropriate. The authority in this case is Gateshead and not Sunderland Council. However, in some instances consultation with Sunderland may be appropriate.</p> <p>The list in Requirement 4(d) does differ from that in the Outline CEMP [APP-174] at page 1. The full list should read:</p> <ul style="list-style-type: none"> • <i>Communications Plan</i> • <i>Construction Traffic Management Plan</i> • <i>Archaeological Mitigation Strategy</i> • <i>Landscape Management Plan</i> • <i>Ecological Management Plan including the Invasive Non-Native Species Management</i> |

| ISH1 | Question to: | Question: | Response: |
|------|----------------------|---|---|
| | | <p>exceptions to the noted working hours was discussed.</p> | <ul style="list-style-type: none"> • <i>Soil Handling Strategy</i> • <i>Materials Management Plan</i> • <i>Site Waste Management Plan</i> • <i>Water Management Plan including the Temporary Surface Water Drainage Strategy</i> • <i>Any other specific management plans identified during subsequent stages of the scheme</i> <p>The list in Requirement 4(d) will be updated in the next iteration of the dDCO.</p> <p>As explained in the Issue Specific Hearing, there is no representation against the Application which suggests that the hours are unacceptable. The ES demonstrates that the proposed working hours are acceptable. As such, there is no reason that they should be queried. The working hours do apply to HDV movements.</p> |
| | <p>The Applicant</p> | <p>The Applicant is asked whether the relevant trigger for requirement 5 is omitted and whether this should be prior to commencement.</p> | <p>The landscaping plan should be approved prior to commencement of the Works and an appropriate amendment will be included in the next iteration of the dDCO [APP-013].</p> |
| | <p>The Applicant</p> | <p>The Applicant is asked is amend</p> | <p>The Applicant agrees and will include the amendment in the next iteration of the dDCO [APP-013].</p> |

| ISH1 | Question to: | Question: | Response: |
|------|---------------|---|--|
| | | Requirement 6(3) to say “shallow thickness” instead of “shower thickness” | |
| | The Applicant | The ExA requested that the effect and intent of Requirement 8(2) be explained. | This will be addressed in the next iteration of the Explanatory Memorandum [APP-014]. |
| | The Applicant | The Applicant is asked to amend Requirement 9(1) to include a reference to consultation with Historic England | The Applicant agrees and will include the amendment in the next iteration of the dDCO [APP-013]. |
| | The Applicant | The Applicant was requested to consider the inclusion of Sunderland Council as a consultee in | The Applicant agrees and will include the amendment in the next iteration of the dDCO [APP-013]. |

| ISH1 | Question to: | Question: | Response: |
|------|---------------|--|---|
| | | respect of traffic management under Requirement 10. | |
| | The Applicant | The Applicant was asked to consider the timing of the replacement of North Dene Footbridge. | The Applicant will review the provisions of the dDCO [APP-013] and Outline CEMP [APP-174] in respect of the removal and reprovision of North Dene Footbridge. However, it is to be noted that the CEMP provides for the maintenance of circular routes and the way in which the Footbridge is reprovisioned. Nevertheless, the Applicant will consider and address this in the next iteration of the dDCO and Explanatory Memorandum [APP-014]. |
| | The Applicant | The Applicant is asked to review the wording of Requirement 14 and in particular i) Use of term 'generally in accordance' and ii) general wording and iii) need for separate article? | (i) the term "generally in accordance with" is used frequently in planning conditions and is entirely capable of interpretation by a planning officer accordingly - it is a matter of fact and degree (and (iii)) there is no need for an additional operative provision |
| | The Applicant | The inclusion of paragraph 19 in the Schedule | This provision, which is preceded in other DCOs promoted by the Applicant is designed to allow proposals to discharge requirements to be assembled, submitted to and considered by discharging bodies in advance |

| ISH1 | Question to: | Question: | Response: |
|--|---------------|--|--|
| | | was discussed. | of the grant of development consent pursuant to the Application. Whilst inchoate pending the grant of development consent, the provision enables work to be continued on the Scheme <i>on risk</i> so as to enable timely delivery in the public interest. |
| Schedule 11 | | | |
| | The Applicant | An update on discussions with relevant statutory undertakers was requested. | In the ExA's first written questions a similar update was requested. Rather than repeating now superseded information here, this information will be supplied in response to written questions. |
| Schedule 12 Documents to be Certified | | | |
| | The Applicant | The Applicant is asked to separate these out into distinct parts | The Applicant agrees and will include the amendment in the next iteration of the dDCO [APP-013]. |
| Explanatory Memorandum | | | |
| | The Applicant | The Applicant is asked to provide more information on why Requirement 6(3) is necessary in | The Applicant agrees and will provide additional drafting at Deadline 2. |

| ISH1 | Question to: | Question: | Response: |
|------|---------------|---|--|
| | | the EM. | |
| | The Applicant | The Applicant is asked to provide more information on why Requirement 8(2) is necessary in the EM. | The Applicant agrees and will provide additional drafting at Deadline 2. |
| | The Applicant | The Applicant is asked to provide more information on why Requirement 10 is necessary and separate provision in the CEMP/CTMP | Strictly speaking this requirement is not necessary as the Inspector correctly identifies that the Outline CEMP/CTMP [APP-174] is secured by separate requirement and includes provision of traffic management measures. It is the Applicant's submission that this is included to provide an additional layer of comfort to that appropriate traffic management measures will be secured during the construction phase of the scheme. |

APPENDICES

APPENDIX A: JUSTIFICATION OF ANCILLARY WORKS PROVIDED IN SCHEDULE 1 OF THE DRAFT DCO [APP-013].

| Type of Works | Justification |
|--|---|
| <p>a) The provision of up to two construction compounds and two working compounds in the areas shown on the works plans;</p> | <p>The two main construction compounds and two working construction compounds to be will be set up to enable the Scheme to be built. Refer to paragraph 1.3.15 and Figure 1 in Appendix A of the Outline CEMP [APP-174].</p> <p>This includes construction of site compound south of Junction 67 (Coal House) required for the construction of new proposed Allerdene Bridge including associated works and construction of the works associated with the offline/widened A1 carriageway improvement works.</p> |
| <p>b) alteration of the layout of any street permanently or temporarily, including but not limited to realignment of carriageways and increasing the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street; altering the level or increasing the width of any such kerb, footway, cycle track or verge; and reducing the width of the carriageway of the street;</p> | <p>Obviously, carrying out a highway improvement Scheme such as this will involve changes to the main line of the works, but also a number of other parts of the local and strategic highway networks. These changes are of a nature that they may be required on a temporary or permanent basis to enable accesses or to tie the main works into the local network.</p> <p>At this stage, the details at this stage cannot be fully defined and further work is required at detailed design stage, which will be the responsibility of the main contractor. Such works include alteration to Junction 67 (Coal House) circulatory carriageway and all arms for the construction of Kingsway Viaduct widening works.</p> <p>Other such works includes alteration to Junction 66 (Eighton Lodge) circulatory carriageway and all arms for the widening, alterations and realignment of A1 carriageway through Junction 66 (Eighton Lodge).</p> <p>The works require permanent and temporary realignment of</p> |

| Type of Works | Justification |
|---|--|
| | <p>carriageway, alteration to the width of carriageway, footways, alter levels. A good example of this is the provision of a site access from Lamesley Road, where changes may be needed to enable swept paths to be provided for plant and hence changes to existing arrangements.</p> |
| <p>c) ramps, means of access, footpaths, bridleways, cycle tracks, embankments, aprons, abutments, shafts, foundations, retaining walls, wing walls, bunds, embankments swales, fencing, boundary treatments and highway lighting and culverts;</p> | <p>The footpaths, bridleways, cycle tracks etc between North Dene Footbridge and Longbank Bridleway Underpass have been reviewed as part of the proposed Scheme. The details of these are to be appraised and finalised at detailed design stage.</p> <p>This power, which is normal in relation to a major highway scheme or a scheme affecting highways, enables the final details of works to be defined and provided by the main contractor. It puts beyond doubt the ability to construct subsidiary elements of the Scheme.</p> |
| <p>d) street works including breaking up or opening a street, or any sewer, drain or tunnel under it, tunnelling or boring under a street, work to place or maintain apparatus in a street, works to alter the position of apparatus, including mains, sewers, drains and cables;</p> | <p>As with item “c”, this enables the final details of works to be confirmed in due course and allows works that would interfere with streets (including the local highway network) to be carried out. This is important particularly in relation to protecting and accommodating the apparatus of statutory undertakers.</p> <p>As for item “c”, at this stage the details of such works are not fully defined and further design is required at detailed design stage. Such works include work to Junction 67 (Coal House) circulatory carriageway to tunnel / boring under to construct the drainage pipe to be connected to the attenuation facilities located within Junction 67 (Coal House). Refer to Sheet 2 of the General Arrangement Plans [APP-010].</p> |

| Type of Works | Justification |
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| | <p>Other such works include drainage works adjacent to Junction 65 (Birtley) on slip that required proposed attenuation facility to be connected to the existing outfall by works under the street. Refer to Sheet 7 of the General Arrangement Plans [APP-010].</p> |
| <p>e) the provision of thin surface course and carriageway markings;</p> | <p>The pavement design is to further be developed and finalise at detailed design stage. This potentially includes resurfacing the fuller extents of the A1 including slip roads at each of the junctions with thin surface course and carriageway markings. The power puts this beyond doubt.</p> |
| <p>f) temporary and permanent diversion of utilities apparatus, including gas and water pipelines and electric and telecommunication cables;</p> | <p>Engagement with statutory undertakers has been undertaken to establish the extents of diversion works.</p> <p>The existing apparatus has been identified and budget estimates to divert / protect the apparatus have been obtained. Where this has identified that the diversion works are significant, refined estimates and define diversion routes has been obtained. Refer to Sheet 3 of the Works Plans [APP-007] for Northern Gas Networks Gas Pipeline and Northumbrian Water mains diversion. This is the approach undertaken with the most significant diversion.</p> <p>However, there are number of locations including north footway at Junction 67 (Coal House), where less significant diversion works will be required that would require further works at detailed stage to fully establish the details. It is appropriate for this power to be taken to ensure that this can take place.</p> |

| Type of Works | Justification |
|---|--|
| g) earthworks, including the extension of earthworks; | The proposed earthworks are shown on Sheets 1 to 7 of the General Arrangement Plans [APP-010]. However, the final design and every single element of the earthworks comprised in the Scheme cannot be known at this stage. This power, which is subject to the provision requiring the final design to be within the <i>Rochdale Envelope</i> for the Scheme enables the final arrangements to be concluded at the most appropriate stage. |
| h) retaining structures; | Major retaining structures have been assessed and details of which have been included in Sheets 1 to 7 of the General Arrangement Plans [APP-010]. There are locations such as gantry piers where there are minor retaining structures potentially required. This power enables the design for such locations to be resolved at the final implementation design stage. |
| i) barriers, including safety barriers; | An initial Road Restraints Risk Assessment Process (RRRAP) has been undertaken to establish the safety barrier required for the proposed Scheme. A further assessment will be made at detailed design stage to finalise the safety barrier design throughout the Scheme extents including the slip roads at all junctions. There can be no doubt as to the ability of Highways England to place safety barriers where required and hence the power is essential. |
| j) fencing; | An initial appraisal has been made to establish the fencing required for the proposed Scheme. Refer to Sheets 1 to 7 of the General Arrangement Plans [APP-010]. A further appraisal will be made at detailed design stage to finalise the fencing design throughout the Scheme extents |

| Type of Works | Justification |
|---|--|
| | including the slip roads at all junctions. The power enables the final design to be delivered, particularly where the final CEMP requires provision to be made. |
| k) refurbishment works to any existing bridge or gantry; | The existing structures maintenance records have been reviewed. However, there are elements of ongoing maintenance works that will be reviewed / assessed at detailed design which potentially form part of the Scheme work. This includes all existing structures including Smithy Lane Overbridge and Northside Overbridge. As such the power is necessary. |
| l) works to alter or remove road furniture; | This includes items such as road marker posts, and road side cabinets, any alteration to which will be finalised at detailed design stage. See also item "p" below. |
| m) works to alter the course of, or otherwise interfere with a watercourse, including without limitation works to the River Team including temporary culverting; | In addition to those watercourse(s) comprised in Work No. 20, which is the subject of a specific power, there are number of small watercourses that cross under the A1 carriageway, details of which will be fully established at detailed design stage. This includes two drainage ditches culverted under the A1 north of Longacre Wood. Initial work has been undertaken as part of the drainage assessment whereas further work is required to finalise the design, meaning that a general power is necessary. |
| n) landscaping, noise barriers, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development; | The Landscape Mitigation Design (Figure 7.6 of the ES, [APP-061]) shows the extents of landscaping proposed as part of the Scheme. The final design is to be prepared in accordance with the Outline CEMP [APP-174] and the CEMP itself at the detailed design stage. A general |

| Type of Works | Justification |
|--|---|
| | power is needed to ensure delivery of these elements. |
| o) works for the benefit or protection of land affected by the authorised development; | This is the works power that is associated with Articles 21, 32 and 33 of the dDCO [APP-013]. It provides a general power to effect protective works to the extent that they are required under those provisions. |
| p) works to place, alter, remove or maintain road furniture; | Refer to item "l" above. The Applicant notes the similarity between these powers and in the next iteration of the dDCO will consider conflating the two provisions, |
| q) signage and road marking; | The signage strategy and road markings have been reviewed throughout the extents of the Scheme in accordance with the regulations. This is to be reviewed at part of detailed design and finalised at that point. For the proposed traffic sign gantries and road marking refer to Sheets 1 to 7 of the General Arrangement Plans [APP-010]. Accordingly, a general power is appropriate. |
| r) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soils stripping, storage, and site levelling); | <p>The Landscape Mitigation Design (Figure 7.6 of the ES, [APP-061]) shows the extents of existing vegetation to be retained and removed as part of the proposed Scheme. This is to be reviewed and finalise at detailed design stage.</p> <p>This general power also enable the detail of other elements of the Scheme to be finalised at the most appropriate stage in delivery.</p> |
| s) the felling of trees and hedgerows; | The Landscape Mitigation Design (Figure 7.6 of the ES, [APP-061]) shows the extents of existing vegetation to be retained and removed as part of the proposed Scheme, but not every individual specimen plant likely to be affected. |

| Type of Works | Justification |
|---|---|
| | <p>The exception to this is that the trees with trees with Tree Preservation Order have been reviewed and appropriate measures proposed to protect or mitigate.</p> <p>However, save in relation to the trees subject to the Tree Preservation Order, flexibility as to the works to fell trees and hedgerows is required. This is to be reviewed and finalise at detailed design stage, along with the mitigation and replacement planting required.</p> |
| <p>t) the establishment of site construction compounds, storage areas, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction related buildings, welfare facilities, construction lighting, haulage roads and other machinery apparatus, works and conveniences;</p> | <p>The power in this item states the elements to be provided in the two main construction compounds and two working construction compounds required to enable the Scheme to be built. Refer to Appendix A of the Outline CEMP [APP-174] for the proposed layout.</p> <p>This is to be reviewed by the Contractor and site compound layout finalised at detailed design stage in approving the final CEMP.</p> |
| <p>u) the provision of other works including pavements works, kerbing and paved areas works, signing, signals gantries, road markings, traffic management measures including temporary roads and such other works as are associated with the construction of the authorised development; and</p> | <p>The pavement design, kerbing and paved areas, traffic signs and road marking have been assessed and the preliminary design proposed, as shown on the general arrangement drawings. This is to be confirmed as part of detailed design throughout the extent of the scheme. Refer to Sheets 1 to 7 of the General Arrangement Plans [APP-010].</p> |
| <p>v) 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</p> | <p>This is a general provision ensuring deliverability of the Scheme.</p> |

| Type of Works | Justification |
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| environment effects to those associated in the environmental statement. | |

APPENDIX B: EXTRACT OF TPO NO.21

Dated 10.9.75.

Lady Park Extension; Coach Road

First Schedule

Trees Specified Individually

(Encircled in black on accompanying map)
None

Trees Specified by Reference to an area
(Within a dotted black line on the map)

| <u>Number on Map</u> | <u>Description</u> | <u>Situation</u> |
|----------------------|---|---|
| A1. | The several trees of various species, e.g. Sycamore, Oak, etc. within the area marked A1 on the accompanying map. | Immediately south and parallel to the entrance road to Lady Park. |
| A2. | The several trees of various species, e.g. Willow, Oak, Ash, Elder and Hawthorn within the area marked A2 on the accompanying map. | Approximately due north and south-west of house No. 1 Lady Park and north and north-east of "The Bungalow". |
| A3. | The several trees of various species, e.g. Sycamore, Ash, Oak, Hawthorn etc. within the area marked A3 on the accompanying map. | Immediately to the east of the garden of No. 3 Lady Park. |
| A4. | The several trees of Sycamore and Willow within the area marked A4 on the accompanying map. | Within the gardens of houses 17-22 Lady Park, north of the houses. |
| A5 | The several trees of various species, e.g. Beech, Oak, Elm, Holly, Sycamore, Birch and Willow, within the area marked A5 on the accompanying map. | Parallel on both sides of the Coach Road and sweeping to the south west covering area known as the Dene. |

Groups of Trees

(within a broken black line on accompanying map)

| <u>Number on Map</u> | <u>Description</u> | <u>Situation</u> |
|----------------------|--|--|
| G1 | Group consisting of: - 1 Ash 1 Oak 2 Lime <u>1</u> Trees | On the south west boundary of White Cottage garden. |
| G2 | Group Consisting of:- 3 Sycamore 1 Oak <u>1</u> Trees | Immediately south of The Lodge and within the garden. |
| G3 | Group consisting of:- 2 Elm | Immediately south of No. 8 Lady Park and within the garden |