

**Application by Highways England for an Order Granting Development Consent for the A38 Derby Junctions Scheme**  
**Action points arising from Compulsory Acquisition Hearing 1, which was held on 10 December 2019**  
**Issued on Friday 13 December 2019.**

The following table sets out the actions that were requested by the Examining Authority during the hearing.

**Responses should be received by the Examining Authority (ExA) by Thursday 19 December 2019.**

Please start your responses by quoting the "Action No.".

**Abbreviations used**

<b>BoR</b>	Book of Reference [AS-007]	<b>ExA</b>	Examining Authority
<b>CA</b>	Compulsory Acquisition	<b>FWQ</b>	First Written Questions [PD-005]
<b>DCiC</b>	Derby City Council	<b>SoCG</b>	Statement of Common Ground
<b>dDCO</b>	Draft Development Consent Order [REP2-007]	<b>SoR</b>	Statement of Reasons [APP-020]
<b>ES</b>	Environmental Statement	<b>TP</b>	Temporary Possession

The Examination Library can be found at: <http://infrastructure.planninginspectorate.gov.uk/document/TR010022-000671>

Action No	Action requested of	Action requested
<b>The Applicant's case for Compulsory Acquisition (CA) and Temporary Possession (TP)</b>		
<b>The Applicant's overall approach to CA and TP in the context of the relevant tests under the Planning Act 2008 and DCLG Guidance</b>		
1.	Applicant	Set out in writing the approach to minimising CA or TP. Explain how specific legal provisions commit it to do so.
<b>The purpose, structure and content of the Book of Reference, the Statement of Reasons and the Funding Statement</b>		
2.	Applicant	Part 1 and Section 10 claims for injurious affection. Record in writing cases where pre-scheme technical information and/or valuations are undertaken.
3.	Applicant	Submit updated Book of Reference (BoR) and Statement of Reasons (SoR) at Deadline 6.
<b>The need for CA and TP and the minimisation of need</b>		
4.	Applicant	Review draft Development Consent Order (dDCO) Article 8 to clarify limits of deviation, including the lateral deviation of the carriageways and consistency with the 1m limit considered in the Environmental Assessment.
5.	Applicant	Clarify how the land in Markeaton Park and Mackworth Park which is to be the subject of TP will be used in practice, its effect on the availability of open space and events in the parks. What mitigation would be provided and how would it be secured through the dDCO?
6.	Applicant Derby City Council (DCiC)	Consult and update on the effects of CA and TP on Statutory Undertakers' equipment.

Action No	Action requested of	Action requested
<b>The consideration of alternatives</b>		
7.	Applicant	Alignment options for Markeaton junction. Written explanation of reasons for the chosen alignment, constraints on moving the A38 carriageway further north in order to avoid/minimise CA of Queensway properties. Illustrate with drawings showing the more northerly alignment.
8.	Applicant	Consideration of the potential to reduce the extent of CA at 253 and 255 Ashbourne Road and 1, 14 Sutton Close and Sutton Turner Houses by amending the proposed access arrangements to left in/left out to each property or moving the connection of the proposed access road to Ashbourne Road towards the Markeaton junction. Should the options be discussed with relevant Affected Persons?
<b>Statutory Undertakers and any other parties benefiting from statutory protections that may be affected</b>		
9.	Applicant	Confirm whether or not E.On needs to be identified as a Statutory Undertaker and provided with Protective Provisions.
10.	Applicant	Update the position reached with telecoms providers - given their lack of engagement.
11.	Applicant	Set out the case for Planning Action 2008 (PA2008) s127 and s136 tests being met, either through Statement of Common Ground (SoCG) or separately.
12.	Applicant	Provide confirmation from Statutory Undertakers that they are content with the Protective Provisions and that a127 and s136 tests have been met.
13.	Applicant	Update on progress of SoCG with Statutory Undertakers.

<b>Special Category Land, including open space &amp; replacement land</b>		
14.	Applicant	Submit the schedule referred to the Applicant's response to First Written Question (FWQ) 13.6(b).
15.	Applicant	Clarify the position regarding the future ownership of land acquired as Replacement Land.
16.	Applicant	Clarify each existing right in respect to Open Space that is proposed to be acquired and that is to be vested in land acquired as Replacement Land. Has this been discussed or agreed with those holding the rights? How is the re-granting of rights to the relevant parties to specific Replacement Land secured?
17.	Applicant	Respond in writing to Issue 13(b) 'The Applicant has stated that " <i>There is no intention to grant rights over the land to be acquired as replacement land that would make the land less advantageous as public open space than the open space land that is going to be acquired.</i> " How can that be ensured and secured rather than intended?'
18.	DCiC	Written response on whether there is an oversupply of public open space in the City as a whole and the areas affected by the Kingsway and Markeaton junctions.
19.	Applicant DCiC	Update SoCG with particular regard to the Replacement Land at Queensway Way, including the form of the proposed surface water drainage attenuation features.
<b>The availability and adequacy of funds</b>		
20.	Applicant	Update on the availability of funding, land cost estimates, Road Investment Strategy support for the proposed development, and any other relevant changes to the Funding Statement by Deadline 6.

<b>Individual objections and issues</b>		
<b>Residential land and property</b>		
21.	Applicant	Update Annex B of the SoR prior to Deadline 6.
22.	Applicant	Written summary of the measures being undertaken to identify, engage with, and address the rights of tenants of properties proposed to be acquired.
<b>Others, including public and commercial, land and property</b>		
23.	DCiC	Provide details of the Mundy 'covenant' for Markeaton Park. Is it a covenant on the land or an agreement between the Mundy family and DCiC?
24.	Applicant	Initiate discussions and provide an update to the Examination once details of the 'covenant' are known.
25.	Applicant	Confirm position regarding access to maintain the environmental features proposed in Mackworth and Markeaton Parks and the maintenance of noise barriers, including the 4m high noise barrier adjacent to the Royal School for the Deaf Derby.
26.	Applicant	Update OEMP to include retention of Royal School for the Deaf Derby boundary wall and gates. Clarify how Royal School for the Deaf Derby concerns with respect to the sensory garden location and the mill pond will be addressed.
27.	Applicant	255 Ashbourne Road – consider the potential to refine access design with a view to minimising the need to acquire the parking area at the front of the property.
28.	Applicant	Update OEMP to include measures to secure the provision of temporary replacement parking where existing provision would be affected by construction works. Clarification of the impacts.

29.	Applicant	Written justification for permanent acquisition of rights from Network Rail.
<b>Any other Compulsory Acquisition or Temporary Possession matters</b>		
30.	Applicant DCiC	Should trigger mechanisms should be introduced to ensure suitable notice would be allowed to prepare for vacant possession, for example if proposed acquisitions or consents might involve third parties?
31.	Applicant DCiC	Selection of potential plots for open space Replacement Land. Qualitative assessment of Replacement Land which have not been included in order to justify their exclusion. Comments on the suitability of the proposed Replacement Land and whether it is " <i>no less advantageous</i> ".