

A19 Downhill Lane Junction Improvement Project

Section 51 Advice – ‘Early Submission’ of draft application documents by Highways England for PINS review

This advice relates solely to matters raised upon PINS review of the draft application documents submitted by Highways England, and not the merits of the proposal. The advice is limited by the time available for consideration, and raised without prejudice to the acceptance or otherwise of the eventual application. It is provided to assist the preparation of the next iteration.

Abbreviations used

PA2008	<i>Planning Act 2008</i>	BoR	<i>Book of Reference</i>	dDCO	<i>draft Development Consent Order</i>
EM	<i>Explanatory Memorandum</i>	ExA	<i>Examining Authority</i>	HE	<i>Highways England</i>
PINS	<i>Planning Inspectorate</i>	SoR	<i>Statement of Reasons</i>	SoS	<i>Secretary of State</i>

Draft Development Consent Order			
Q No.	Article (A)/ Requirement (R)	Extract from DCO (for ease of reference)	Comment/Question
1.		General	<p>The Applicant acknowledges the linkages between this project and the A19 Testo’s Junction project currently under examination. Since this ‘Early Submission’ submission of draft DCO on 5 January 2018, there has been an Issue Specific Hearing into the Testo’s draft DCO, and the submission by Highways England of a revised draft Testo’s DCO at Deadline 3 of the examination.</p> <p>In those circumstances PINS anticipates that Highways England will be revising the draft Downhill Lane DCO and draft Explanatory Memorandum in any event. Accordingly, the following comments and questions do not look to consider the drafting of the Early Submission DCO or Explanatory Memorandum in any detail; rather they principally concern the relationship of DCO provisions with other information within the Early Submission documents.</p>

Draft Development Consent Order			
Q No.	Article (A)/ Requirement (R)	Extract from DCO (for ease of reference)	Comment/Question
2.	Schedule 1	Work No. 7 - ...The new circulatory carriageway will accommodate the new entry/exit links of Work Nos. 4, 5, 9, 10, 17 and 18, and the improved existing entry/exit links of Work Nos. 21 and 22.	Should this not be: The new circulatory carriageway will accommodate the new entry/exit links of Work Nos. 3, 5, 9, 10, 18 and 19 , and the improved existing entry/exit links of Work Nos. 22 and 23 ?
		Work No. 10 - ...originating at the entry/exit with the new circulatory carriageway and tying into the existing Downhill Lane (East)...	Should this not be: ...originating at the entry/exit with the new circulatory carriageway (Work No. 7) and tying into the existing Downhill Lane (East)...
		Work No. 20 - ...originating at the existing Downhill Lane (West) and terminating at a junction with the proposed eastbound A1290 carriageway (Work No. 18)...	Should this not refer to Work No. 19 and not Work No. 18?
		Work No. 21 - The construction of a private means of access approximately 55m in length that links the realigned Downhill Lane (West) (Work No. 19)...	Should this not refer to Work No. 20 and not Work No. 19?
3.	Schedule 9	Book of Reference Location Plan – Regulation 5(2)(o) Land Plans – Regulation 5(4)	In some instances the Applicant provides the full reference for the Regulation identified in Column 1, we would suggest that a consistent approach be taken and that these be checked for accuracy prior to submission. Book of Reference – Regulation 5(2)(d) Land Plans – Regulation 5(2)(i)
4.	Schedule 5	Plots 1/1f and 1/6	Column 2 identifies that these plots will require new rights over land "to construct, operate, access and maintain a non-motorised user route/public right of way (Work No.8") Would it not also be inclusive of Work No.6 and 17?

Draft Statement of Reasons		
Q No.	Paragraph	Comment/Question
1.	General	As with the draft Downhill Lane DCO, comments and questions relating to the draft Statement of Reasons are limited having regard to the progress of the A19 Testo's examination on compulsory acquisition matters since the receipt of the Early Submission documents on Downhill Lane.
2.	General	<p>Potential inconsistency "this document" (para 1.1.1) and "this statement" (para 1.1.6), may be beneficial to make clear from the outset what "the document" is?</p> <p><i>Consider: This Statement of Reasons ("the Statement") is submitted to the Secretary of State for Transport via the Planning Inspectorate in relation to an application made by Highways England ("the Applicant")...</i></p> <p>Please take the above into consideration against the suite of proposed application documents the Applicant intends to submit for consistency.</p>
3.	Para 1.1.2	<p>Where references are provided to other application documents this is useful, however please ensure that final versions of application documents are checked for consistency and accurate in all material submitted. In this instance we are unable to confirm whether <i>document reference TR010024/APP/6.1</i> is in fact the Environmental Statement.</p> <p><i>The Application is for an order granting development consent ("the development consent order" / "DCO") for the A19 Downhill Lane Junction Improvement scheme ("the Scheme"). The draft DCO is referred to as The [the] A19 Downhill Lane Junction Improvement Development Consent Order 201[*]. The made DCO...</i></p> <p>This is slightly confusing as the remainder of the document either refers to "the draft DCO" or "the draft A19 Downhill Lane Junction Improvement Development Consent Order" or "the DCO". We would recommend that a consistent approach be adopted regarding this matter and Highways England may wish to review past practice adopted on other projects e.g. A19/A184 Testo's.</p>
4.	Para 1.1.5	<i>As the Scheme is an NSIP, development consent must be obtained from the Secretary of State to authorise it, and an application for a development consent order must be made to the [relevant] Secretary of State, care of the Planning Inspectorate ("PINS"), under section 37 of the Act.</i>
5.	Para 2.1.5	<p>See comments provided above for para 1.1.2. In this instance the draft Explanatory Memorandum (EM) provided does not include a document reference number and the referenced paragraphs is inconsistent with the draft EM.</p> <p><i>...the Explanatory Memorandum (document reference TR010024/APP/3.2) at paragraphs 5.59 [5.58?] – 5.95.</i></p> <p>Please ensure that final application documents are checked for consistency and accurate across all submissions made.</p>

Draft Statement of Reasons		
Q No.	Paragraph	Comment/Question
6.	Para 2.1.6	<p>(e) Article 31: Statutory Undertakers, and Schedule 9 [Schedule 8?].</p> <p>Please ensure that final application documents are checked for consistency and accurate across all submissions made.</p>
7.	Para 3.1.1	<p>The Land is shown on the Land Plans (document reference TR010024/APP/2.3 [(A) and (B)?]) along with colour-coded representation of the proposed usage i.e. permanent land acquisition, temporary land acquisition, or temporary land acquisition with permanent rights to be created.</p> <p>Please ensure that final application documents are checked for consistency and accurate across all submissions made.</p> <p>The draft Land Plans submitted TR010024/APP/3.2(A) and TR010024/APP/3.2(B), defines on Sheet 2 of 2 "Land to be used temporary if construction of Testo's Junction Improvement is delivered". Is the "temporary land acquisition" referred to in this paragraph inclusive of the land shown on Land Plan (doc ref TR010024/APP/3.2(B))?</p>
8.	Para 3.1.2	<p>The Scheme boundary containing the Land encloses 28.29 hectares. The Scheme requires 16.40 hectares of land permanently (freehold to be acquired where not already held by the Applicant), the temporary possession alone of 11.73 hectares and the temporary possession of 0.16 hectares of land over which permanent rights will also be acquired. It should be noted that 10.66 of the land to be acquired or used permanently is land contained within the existing highway boundary.</p> <p>The temporary possession of 11.73 hectares of land is this inclusive of land shown on Land Plan Sheet 2 of 2? If Testo's isn't delivered would this land still be required and therefore would the appropriate colour-code not instead be green as depicted on the Land Plans? The Applicant is aware that the A19/A184 Testo's Junction Improvement project is still in Examination and no decision is likely to be made for this DCO till latest, 14 August 2018.</p> <p>We would remind the applicant to review DCLG: Guidance related to procedures for the compulsory acquisition of land, specifically paragraphs relating to the SoR, we draw your attention to para 32, which reads as follow: 32. The statement of reasons should seek to justify the compulsory acquisition sought, and explain in particular why in the applicant's opinion there is a compelling case in the public interest for it. This includes reasons for the creation of new rights.</p>

Draft Statement of Reasons		
Q No.	Paragraph	Comment/Question
9.	Table 1, 2 and 3	<p>It is difficult to confirm which land plots described in the table is associated to the works identified via a review of the Works and Land Plan. Due to the tentative nature of this case, a thorough check was not completed, however examples are provided on PINS initial review of these Tables at Q10-13 (Table 1), Q14 (Table 2) and Q15 (Table 3).</p> <p>A thorough check of Table 1-3 was not completed and we would encourage HE to undertake a full review of the relevant plans to ensure Column 1 and 2 is accurate.</p>
10.	Table 1	
	Works 1, 2, 12 and 13	<p>Plots identified in column 1 where their purpose is cross-referenced to Works 1, 2, 12 and 13, are Works required for undertakings regarding the "<i>new drainage attenuation pond</i>" and access of "<i>new private means of access</i>". The Applicant will be aware that the revised SoR issued during the Examination for Testo's [AS-010], used similar wording and in these instances additional amendments were made to be inclusive of "<i>Environmental Mitigation Works</i>".</p> <p>Would similar mitigation works be required for the A19 Downhill Lane Junction Improvement project and if so should this be reflected within the SoR and possibly the draft DCO (Schedule 1) to specify the Authorised Development being sought?</p>
	Works 3, 5, 7, 9, 10, 18, 19, 22 and 23	<p>See Q3 above regarding the draft DCO.</p> <p>Plots identified in column 1 where their purpose is cross-referenced to Works 3, 5, 7, 9, 10, 18, 19, 22 and 23, are Works required for undertakings regarding either drainage works; construction of new off/on slips that originate or terminate (entry/exit) with the proposed Downhill Lane circulatory carriageway (Work 7); and/or links with the east/westbound (new/existing) A1290 carriageway; and/or links with the existing A19 dual carriageway.</p> <p>The Applicant will be aware that the revised SoR issued during the Examination for Testo's [AS-010], used similar text referenced above and in these instances additional amendments were made to be inclusive of "<i>Traffic management and Ancillary Highway Works</i>".</p> <p>Would similar "<i>Management</i>" and/or "<i>Ancillary</i>" works be required for the A19 Downhill Lane Junction Improvement project and if so should this be reflected within the SoR and possibly the draft DCO (Schedule 1) to specify the Authorised Development being sought?</p>

Draft Statement of Reasons		
Q No.	Paragraph	Comment/Question
11.	Plot 1/3e	<p>Column 2 identifies the Work No. associated to the relevant plot.</p> <p>It is not clear following a comparison check between the Works and Lands Plan, whether Work No.3 is indeed associated to this specific plot? It may be necessary for HE to undertake a full review of the relevant plans to ensure Column 2 is accurate. See general comments identified below for the Land and Works Plan</p>
12.	Plot 1/3d	<p>Some of the works described in Column 2 are not consistent with Schedule 1 of the dDCO in terms of description e.g. text below highlighted in red is additional description provided within the dDCO. The Applicant in all other instances within this table provides approximate lengths.</p> <p>Work No. 20 - The construction of a new section of road, [approximately 115m in length, forming the new Downhill Lane (West)]; originating at the existing Downhill Lane (West) and terminating at a junction with the proposed eastbound A1290 carriageway</p>
13.	Plot 1/3f	<p>Column 2 identifies the Work No. associated to the relevant plot.</p> <p>It is not clear following a comparison check between the Works and Lands Plan, whether Work No. 23 should be inclusive in Column 2? It may be necessary for HE to undertake a full review of the relevant plans to ensure Column 2 is accurate. See general comments identified below for the Land and Works Plan</p>
14.	Plot 1/3h	<p>"Associated works including landscaping and drainage relating to Work No.19..."</p> <p>Would Work No.21 and 22 not be associated hereto?</p>
Table 2		
15.	1/1f and 1/6	<p>These plots are identified as land required for Permanent rights to be acquired. Would these rights not also need to include Work No.6 and 17 and should this land not instead be acquired for "Land to used Temporarily", rather than new rights being acquired?</p>
Table 3		
16.	2/1, 2/2a, 2/2b and 2/2c	<p>These plots are associated to "All Works" and is specifically required "...if the construction of Testo's improvement scheme is delivered." Furthermore, this Land would be required temporarily as the "...main site compound to include, but not limited to, site offices, welfare facilities, parking provisions..."</p> <p>Should the Testo's improvement scheme not be delivered, it appears from the Works described within the draft SoR that only plot 1/11 will accommodate a main site compound to include, site offices, welfare facilities and parking provisions. Would this be sufficient for the purposes of this scheme or would this imply without the approval of the Testo's improvement scheme that the A19 Downhill Lane Improvement project would not be submitted?</p>

Draft Book of Reference		
Q No.	Paragraph	Question
1.	General	Upon an initial review of the BoR and Land Plan we have noted a number of inconsistencies, which in the majority of instances relate to the description provided in the BoR and the details provided on the Land Plans. Due to the tentative nature of this case, a thorough check was not completed, however examples are provided on PINS initial review and we would encourage HE to undertake a full review of the BoR (all columns) against the relevant Land plans to ensure accuracy.
	Plots 1/1c, 1/1e	Column 3 of BoR describes plot as <i>"Approximately [xx] square metres of West Moor Farm, Washington Road, Sunderland, SR5 3HY"</i> West Moor Farm is not depicted on the Land Plan. Would it not be accurate to describe the land as <i>"west of the A1290"</i> or it is recommended that HE update the Land Plan/BoR so that the description is consistent across all application documents prior to submission.
	Plot 1/1d	See above comments. Additionally the final column states <i>"Assumed easement – Northern Powergrid"</i> , will the final version of the BoR submitted for Examination confirm this?
	Plots 1/1f, 1/1g	Column 3 of BoR describes plot as <i>"Approximately [xx] square metres of land on the west side of Baltimore Avenue, Town End Farm, Sunderland"</i> Baltimore Avenue is not depicted on the Land Plan. It is recommended that HE update the Land Plan/BoR so that the description is consistent across all application documents prior to submission.
	Plot 1/2c	Column 3 of BoR describes plot as <i>"Approximately [xx] square metres of land on the north side of Washington Road, North Hylton, Sunderland"</i> HE may wish to consider whether the description provided is appropriate/descriptive enough?
	Plots 1/3a, 1/3c	Column 3 of BoR describes plot as <i>"Approximately [xx] square metres of land lying to the west of Baltimore Avenue, Ferryboat Lane and Offerton Lane, Hylton"</i> Baltimore Avenue, Ferryboat Lane and Offerton Lane is not depicted on the Land Plan. It is recommended that HE update the Land Plan/BoR so that the description is consistent across all application documents prior to submission.
	Plots 1/3b, 1/3d	Column 3 of BoR describes plot as <i>"Approximately [xx] square metres of part of the A1290 which was formerly the site of mineral railway..."</i> HE may wish to consider whether the description provided is appropriate/descriptive enough?
	Plot 1/3f	Column 3 of BoR describes plot as <i>"Approximately [xx] square metres of land lying to the east of Elliscrope Farm..."</i> HE may wish to consider whether the description provided is appropriate/descriptive enough?
	Plot 1/3h	Column 3 of BoR describes plot as <i>"Approximately [xx] square metres of three parcels of land..."</i> HE may wish to consider whether the description provided is appropriate/descriptive enough?

Draft Book of Reference		
Q No.	Paragraph	Question
	Plots 1/4a, 1/4b	Column 3 of BoR describes plot as “ <i>Approximately [xx] square metres of land at Elliscope Farm...</i> ” HE may wish to consider whether the description provided is appropriate, Plot 1/1e as referenced above reference this land as being part of West Moor Farm. As queried above there is no reference to West Moor Farm on the Land Plan.
	1/6, 1/7a, 1/7b, 1/7c, 1/10, 1/11, 1/13 and 1/14	These plots either make reference to “ <i>...of Town end Farm...</i> ” or “ <i>...of Downhill Farm...</i> ” or “ <i>...of Make-Me-Rich Farm...</i> ” or “ <i>...of Mount Pleasant Farm...</i> ” or “ <i>Make Me Rich Gardens...</i> ” or “ <i>...of Glebe Farm...</i> ” HE may wish to consider whether the description provided against these plots and others as referenced above is appropriate/descriptive enough and in some instances regarding these plots, the Land Marks as referenced in the BoR (e.g. Mount Pleasant Farm) is not depicted on the Land Plan.
2.	Part 3	Should <i>One North Esat, London, 54 Sun Street, Waltham Abbey, Essex, EN9 1EJ</i> not be included into Part 3 of the BoR, with reference to plots 1/2a, 1/2b, 1/2c, 1/2d, 1/2e and 1/2f?
3.	Testo’s Land to be used temporarily	We draw attention to Highways England amended BoR [TR010020/APP/4.3] submitted into the Examination for A19/A184 Testo’s Junction Improvement project, which relates to Land Plan [TR010020/APP/2.3] plots 2/7a, 2/2d, 2/2e and 2/2f, their associated plot references for the A19 Downhill Lane Junction Improvement project (the subject for this feedback) is depicted on Land Plan [TR010024_APP_2.3(B)] as plots 2/1, 2/2a, 2/2b and 2/2c. See Table BoR1 Extract below, which includes extracts from both BoRs (A19T = Testos and DLJ = Downhill Lane Junction) as an example in reference to these specific plots. We would encourage Highways England to review the information detailed in both BoRs as PINS would expect the details held in both to be identical (unless otherwise explained), and furthermore if the information detailed in the draft BoR for A19 Downhill Lane Junction Improvement is accurate, then it is the responsibility of Highways England to ensure that the ExA examining the A19 Testo’s Junction Improvement project is provided with an updated/amended BoR to reflect these changes.

Table BoR1 Extract

Land Plans Sheet Number	Plot Ref	Description of Land	Extent of acquisition or use	Category 1			Category 2
				Owners	Lessees or Tenants	Occupiers	
2 (A19T) & 2 (DLJ)	2/7a & 2/1	<p>Approximately 3,735 square metres of land occupied by West Pastures</p> <p>Approximately 3,734 square metres of land occupied by West Pastures access track</p>	<p>Land to be Used temporarily (as described in Schedule 7) under Article 29 of the Order</p> <p>Land to be Used temporarily (as described in Schedule 7) under Article 28 of the Order</p>	<p>Edward James Cleary, 115 Woodlands View, West Rainton, Tyne & Wear, DH4 6RJ</p> <p>Edward James Cleary (assumed half-width ownership), 115 Woodlands View, West Rainton, Tyne & Wear, DH4 6RJ</p> <p>George Haynes (assumed half-width ownership), Scots House Farm, Newcastle Road, West Boldon, Tyne & Wear, NE36 0BE</p> <p>Irene Elizabeth Davison, 87 Leander Drive, Henley Way, Boldon, Tyne & Wear, NE35 9LP</p> <p>Irene Elizabeth Davison (assumed half-width ownership), 87 Leander Drive, Henley Way, Boldon, Tyne & Wear, NE35 9LP</p> <p>Kevin Gerard Parker (assumed half-width ownership), 4 The Close, Cleadon, Tyne & Wear, SR6</p>	None	As Owner	<p>None</p> <p>The Church Commissioners for England, Church House, Great Smith Street, London, SW1P 3AZ</p>

Land Plans Sheet Number	Plot Ref	Description of Land	Extent of acquisition or use	Category 1			Category 2
				Owners	Lessees or Tenants	Occupiers	
				<p>7RG</p> <p>Kevin Gerard Parker (assumed half-width ownership), 4 The Close, Cleadon, Tyne & Wear, SR6 7RG</p> <p>South Tyneside Council (assumed surface ownership), Town Hall and Civic Offices, Westoe Road, South Shields, Tyne & Wear, NE33 2RL</p> <p>South Tyneside Council (assumed surface ownership), Town Hall and Civic Offices, Westoe Road, South Shields, Tyne & Wear, NE33 2RL</p> <p>The Church Commissioners for England (assumed half-width ownership), Church House, Great Smith Street, London, SW1P 3AZ (in respect of mines and minerals)</p> <p>The Church Commissioners for England, Church House, Great Smith Street, London, SW1P 3AZ (in respect of mines and minerals)</p>			

Land Plan and Works Plan

1. See Q8 above regarding the draft SoR. Upon an initial review of the Plots and Works described within these tables and a comparison with the Works and Lands Plan, there appears to be some discrepancies which could be resolved by providing a more descriptive/illustrative plan or an overlay of some aspects from the Land Plan onto the Works Plan.
 - The Applicant will be aware that a similar issue was raised at pre-app, Acceptance and the Examination for the A19/A184 Testo's Junction Improvement project. The Applicant in response to the ExA's concern on these matters submitted Works Plans inclusive of boundaries to depict associated plots reflected on the Land Plan. We would advise the Applicant to adopt a consistent approach followed on other Highway England schemes to avoid repetition of issues/concerns.
2. The Land plans identify plots marked pink as "*Land to be Acquired or Used permanently for construction, operation and maintenance works*"
 - We assume land to be used permanently means land already in HE ownership.
 - Should land subject to CA and land already in HE ownership not be defined separately, either on Lands Plan or within SoR?
 - The key on Land Plan refers to "*Land to be Acquired or Used **permanently** for construction, operation and maintenance works.*"
Confusion in terms of rights being sought for "permanent construction", previous DCO applications e.g. M20 Land Plan key refers to '*Land to be permanently acquired*'.
3. Upon review of the Works Plan with the draft SoR and DCO, it is noted on the Works Plan that Work No.19 does not depict a commencement point, furthermore should Work No.22 not extend to the edge of the red line boundary as shown for Work No.4, 14 and 23?
4. Upon review of the Works Plan with the draft SoR and Streets, Right of Way and Access Plans, is the commencement point as shown on the Works Plan for Work No.17 in the correct position, considering point 1/25 depicted on the Streets, Right of Way and Access Plan?
5. The Applicant will be aware at Acceptance for the A19/A184 Testo's Junction Improvement project, PINS raised the following query under s51 advice: *At present, the highway works LoD are shown subject to a pink overlay and relate to the land shown on the Land Plans for permanent acquisition. This in turn raises questions about the extent of the Rochdale envelope for the highway works, as the pink land includes reasonably substantial land areas that do not appear to be necessary for the linear highway works, because for example they are defined as being necessary for non-linear works...*
 - Subsequently [Highways England response](#) thereto was received on 31 October 2017. Each application will be assessed on their individual merits and therefore we would encourage the Applicant to adopt a consistent approach followed on other Highway England schemes to avoid repetition of issues. In this instance it may be useful for the Applicant to provide a response/clarity regarding the relationship between the Limits of Deviation (LoD) for linear and non-linear works, which could potentially be clarified within the document "Introduction to the Application" under sub-header Works Plan?

General

1. Where references are provided to other Application documents it would be beneficial to provide the full title thereof inclusive of document number. Should further draft documents be provided for review, HE may wish to consider providing a full list of known application documents (for purpose of sign-posting) as well as their respective reference number.
2. Use consistent abbreviation and language across suite of documents e.g. Development Consent Order (DCO) or ("the Order"); National Policy Statement for National Networks (NPSNN) or National Networks for National Policy Statement (NNNPS). These are only a few of the inconsistencies identified and HE may wish to undertake a thorough check of ALL application documents to ensure consistent approach.