

A428 Black Cat to Caxton Gibbet improvements

TR010044

Volume 3

3.3 Consents and Agreements Position Statement

Regulation 5(2)(q)

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and
Procedure) Regulations 2009

26 February 2021

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Applications: Prescribed Forms and
Procedure) Regulations 2009**

**A428 Black Cat to Caxton Gibbet
improvements
Development Consent Order 202[]**

3.3 Consents and Agreements Position Statement

Regulation Number:	Regulation 5(2)(q)
Planning Inspectorate Scheme Reference	TR010044
Application Document Reference	TR010044/APP/3.3
Author:	A428 Black Cat to Caxton Gibbet improvements Project Team, Highways England

Version	Date	Status of Version
Rev 1	26 February 2021	DCO Application

Table of contents

Chapter	Pages
1 Introduction	1
1.1 Purpose of this document.....	1
1.2 The Scheme	1
2 Strategy	3
2.1 Highways England’s Consents Strategy	3
3 Consents and agreements	4
3.1 Consents	4
3.2 Agreements	5
Appendix A Consents and agreements table	6

1 Introduction

1.1 Purpose of this document

1.1.1 This Consents and Agreements Position Statement (this Statement) sets out Highways England's intended strategy for obtaining the consents and associated agreements needed to implement the A428 Black Cat to Caxton Gibbet improvement scheme (the Scheme).

1.1.2 The purpose and objective of this Statement is to identify at a high level what consents and agreements are expected to be needed for the Scheme, and how these will be obtained.

1.2 The Scheme

1.2.1 The purpose of the Scheme is to address the problems of congestion, poor journey time and reliability and poor resilience against incidents between the Black Cat and Caxton Gibbet roundabouts. The Scheme seeks to address these problems through the construction of a new 10 mile (16 km) dual 2-lane carriageway from the Black Cat roundabout to Caxton Gibbet roundabout, to be known as the A421 (hereafter referred to as the 'new dual carriageway') and in addition approximately 1.8 miles (3km) of tie-in works, the outline of this is shown in schematic form in **Figure 1-1** below.

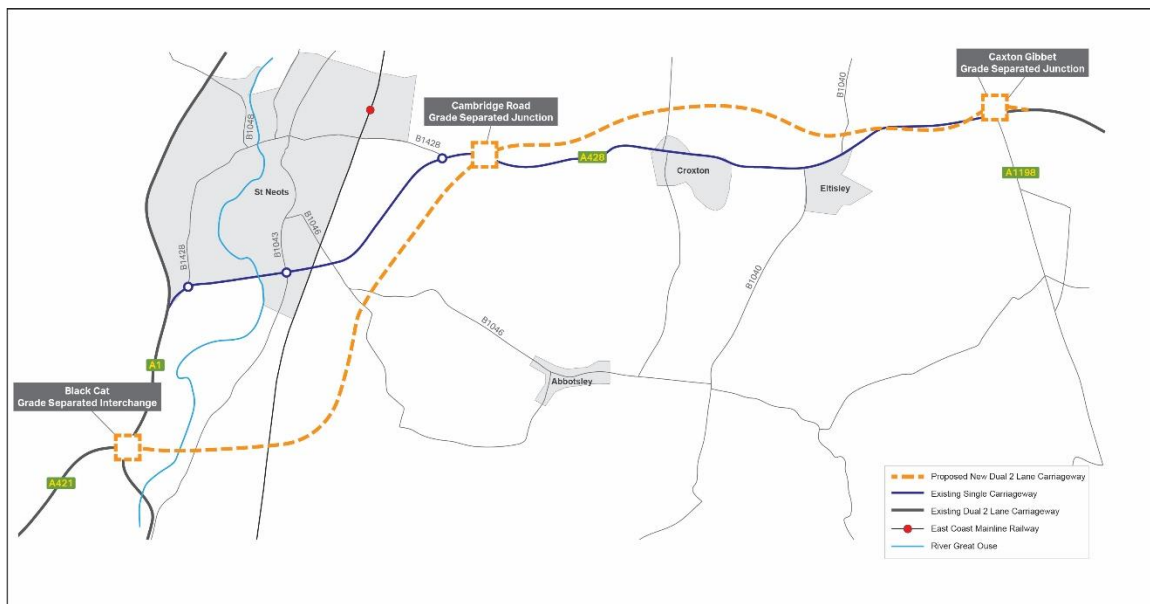


Figure 1-1 The Scheme

1.2.2 In addition to the new dual 2 lane carriageway the Scheme includes the following components:

- a. A new three-level grade separated junction at Black Cat roundabout with the A1 at the lower level, the new dual carriageway on the upper level and a roundabout between the two at approximately existing ground level. In addition to slip roads a new free flowing link between the A421 eastbound carriageway and the A1 northbound carriageway will also be provided.

- b. A new grade separated all movements junction will be constructed to the east of the existing Cambridge Road roundabout to provide access to the new dual carriageway and maintain access to the existing A428.
- c. At the Caxton Gibbet roundabout, a new grade separated all movements junction will be constructed, incorporating the existing roundabout on the south side of the new dual carriageway and a new roundabout on the north side. The new dual carriageway will then tie-in to the existing A428 dual carriageway to the east of the new Caxton Gibbet junction.
- d. In the vicinity of the new Black Cat junction, direct access onto the A1 from some local side roads and private premises will be closed for safety reasons. A new local road will provide an alternative route. The existing Roxton Road bridge will be demolished and replaced with a new structure to the west to accommodate the realigned A421.
- e. New bridge crossings will be constructed to enable the new dual carriageway to cross the River Great Ouse, East Coast Main Line railway, Barford Road, the B1046/Potton Road, Toseland Road and the existing A428 at Eltisley.
- f. The existing A428 between St Neots and Caxton Gibbet will be de-trunked and retained for local traffic and public transport with maintenance responsibility transferred to the local highway authorities.
- g. An alternative access will be provided to side roads at Chawston Wyboston and Eltisley.
- h. There will be safer routes for walkers, cyclists, and horse riders.

1.2.3 A detailed description of the Scheme is set out in **Chapter 2, The Scheme** of the Environmental Statement [TR010044/APP/6.1].

2 Strategy

2.1 Highways England's Consents Strategy

2.1.1 The basis of Highways England's consents strategy is that:

- a. A Development Consent Order (DCO) must be sought as the principal consent for the works (under the Planning Act 2008 (PA 2008) including to provide the necessary land acquisition and temporary possession powers.
- b. The intent of the PA 2008 and Government policy is to enable development and construction-related consents to be included within the DCO; therefore, where possible and practicable, additional consents have been included within the DCO.
- c. The Scheme benefits from the intent of the PA 2008 and Government policy as most of the consents required for the construction of the Scheme will be in place at the point of the making of the DCO; this minimises the need for any further approvals before the works covered by the DCO can commence.
- d. The proposed Scheme has and will be developed based on collaboration with the consenting authorities, and any additional consents and agreements will be secured at key stages of project development as necessary.

3 Consents and agreements

3.1 Consents

- 3.1.1 The principal consent for the proposed Scheme will be a DCO. The DCO process provides development consent for the works and enables land acquisition and temporary possession, along with many consents and powers to be dealt with at the same time.
- 3.1.2 However, the DCO application may need to be supplemented by other applications because:
- a. A specific consent cannot be contained in the DCO.
 - b. A consenting authority declines to allow a consent to be contained within the DCO.
 - c. It is not desirable, or it is inappropriate, to include a consent within a DCO due to the stage of design development meaning the detail required is unavailable.
- 3.1.3 At this point (the submission of the DCO application) most of the consents and all the powers required have been included, or addressed, within the DCO as permitted by various provisions of the PA 2008. Such powers contained within the DCO include:
- a. Authorisation of all permanent and temporary works including such powers as are necessary to replace the requirement for separate listed building consent.
 - b. Compulsory acquisition of land and / or rights over land such as easements, restrictive covenants and the temporary possession of land.
 - c. Consent to carry out street works and to stop up highways permanently or temporarily.
 - d. Highways matters (such as designating highway as trunk road, de-trunking the existing A428, designating highway as classified and unclassified roads etc.).
 - e. Permanent traffic regulation matters (such as speed limits, clearways and restrictions on use).
 - f. Consent to stop up and divert public and private rights of way.
 - g. Consent to carry out tree works (including works to trees subject to a Tree Preservation Order).
 - h. Consent to remove hedgerows (including any 'important hedgerows').
 - i. Consent to carry out any required utility diversion (subject to protective provisions).
 - j. Consent to abstract and/or discharge water from/to the sub-soil.
 - k. Consent to carry out flood risk and water discharge activities.

- l. Consent to obstruct ordinary watercourses.
- m. Consent or approval for the carrying out of the works required under any relevant byelaws made under the Water Resources Act 1991 or the Land Drainage Act 1991.
- n. Suspension of navigation rights in the River Great Ouse.

3.1.4 The permits, consents and agreements that may need to be sought separately from the DCO are identified in **Appendix A**.

3.1.5 The content of **Appendix A** is largely dependent on finalisation of the detailed design, the detailed construction site set up and methodologies, and discussions with the consenting authorities. These are not sufficiently developed at this stage to confirm the requirements and therefore it is not practicable to include these permits, consents and agreements within the DCO.

3.1.6 A number of the consents included in the DCO are prescribed in the Infrastructure Planning (Interested Parties and Miscellaneous Provisions) Regulations 2015/462. As a result, under Section 150 of the PA 2008, the relevant consenting body must agree to the inclusion (i.e. disapplication) of these consents within the DCO. Discussions between Highways England and these consenting bodies are ongoing, and Highways England's aim is that agreement for inclusion of disapplication will be provided during the examination of this application. These specific consents are identified and included in Appendix A as consent has not yet been obtained.

3.2 Agreements

3.2.1 Separate agreements with relevant stakeholders may be required in parallel to the DCO process and may take a variety of forms.

3.2.2 A fundamental part of the DCO process is the preparation and agreement of Statements of Common Ground (SoCG) with a variety of relevant stakeholders to identify matters on which the parties agree and disagree, to narrow the focus for examining the application concerned and to make the Examination process more efficient.

3.2.3 SoCGs will be progressed by Highways England where appropriate and will be accompanied by a Statement of Commonality setting out the SoCGs being prepared, the progress with each and the common issues on which each party agrees. A Statement of Commonality will be submitted when there is sufficient progress with SoCGs for this to add value to the process.

3.2.4 Progress on finalising any SoCG or other forms of agreement, will be reported to the Examining Authority in accordance with the Examination timetable.

3.2.5 Other possible forms of agreement alongside SoCGs are legal agreements regulating land and works powers, undertakings and memoranda of understanding, and letters of comfort. Again, these will be progressed by Highways England where appropriate.

Appendix A Consents and agreements table

Consents and agreements table

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:	Relationship to the draft DCO
Protected species licensing	Badgers - A licence under Section 10 of the Protection of Badgers Act 1992	Natural England	Badgers have been observed within the Order Limits. It will be necessary to undertake the permanent closure and destruction of confirmed badger setts during the Scheme construction.	Discussions with Natural England have taken place on the potential impact of the Scheme and the requirement for licences post DCO consent. A Service Level Agreement is in place with Natural England.	Highways England is not seeking to disapply this Prescribed Consent in the draft Development Consent Order (dDCO).
	Bats - European Protected Species Licence under the Conservation of Habitats and Species Regulations 2017; Wildlife and Countryside Act 1981	Natural England	For the disturbance or removal of bat roosts in the Order Limits prior to the commencement of construction.	Discussions with Natural England have taken place on the potential impact of the Scheme and the requirement for EPS Licences post DCO consent. It is anticipated that a letter of no impediment will be provided by Natural England prior to the close of the Examination	Highways England is not seeking to disapply this Prescribed Consent in the dDCO.
	Great Crested Newts – District Level Licensing Schemes - Conservation of Habitats and Species Regulations 2017	Natural England and NatureSpace	Applications to join District Level Licensing Schemes will be made to Natural England (who cover	Discussions with Natural England and NatureSpace have taken place on the potential impact of the Scheme and the requirement for GCN district level licences post DCO	Highways England is not seeking to disapply this Prescribed Consent in the

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:	Relationship to the draft DCO
			Cambridgeshire) and NatureSpace (who cover Bedfordshire). This is required for the translocation of Great Crested Newts in the Order Limits prior to the commencement of construction.	consent. It is anticipated that a letter of no impediment will be provided by both Natural England and NatureSpace prior to the close of the Examination.	dDCO.
Environmental / water / waste / drainage	Full Water Abstraction Licence under section 24 of the Water Resources Act 1991	Environment Agency	The dewatering works relating to some borrow pits and deep excavations, particularly those in the Black Cat area, are likely to involve the abstraction of more than 20 cubic metres of water a day for more than 28 consecutive days and therefore the works will require a full abstraction licence.	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and the dewatering works required. Discussions are ongoing in relation to agreement to disapply Section 24 in the dDCO.	Section 24 is a Prescribed Consent which Highways England is seeking to disapply in the dDCO.
	Full Water Abstraction Licence under section 24 of the Water Resources Act 1991	Environment Agency	Highways England has sought to design the Scheme to avoid the need for	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and the	Section 24 is a Prescribed Consent which Highways

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:	Relationship to the draft DCO
			permanent and long term abstraction of groundwater where possible. However, this may be required in relation to dewatering works at the A1 underpass and accordingly a Full Water Abstraction Licence may be required.	dewatering works required. Discussions are ongoing in relation to agreement to disapply Section 24 in the dDCO.	England is seeking to disapply in the dDCO.
	Temporary Water Abstraction Licence under section 24 of the Water Resources Act 1991	Environment Agency	Construction works will involve the temporary abstraction from a watercourse or groundwater of more than 20 cubic metres of water per day for less than 28 consecutive days and therefore Temporary Water Abstraction Licences are required.	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and the dewatering works required. Discussions are ongoing in relation to agreement to disapply Section 24 in the dDCO.	Section 24 is a Prescribed Consent which Highways England is seeking to disapply in the dDCO.
	Water Transfer Licences under Section 24 of the Water Resources Act 1991	Environment Agency	Construction works will require the diversion of watercourses and	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and the	Section 24 is a Prescribed Consent which Highways

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:	Relationship to the draft DCO
			dewatering of ponds. Water Transfer Licences are required from the Environment Agency for the diversion of a watercourse where more than 20 cubic metres of water a day is moved from one source to another without intervening use.	diversion of watercourses and dewatering works required. Discussions are ongoing in relation to agreement to disapply Section 24 in the dDCO.	England is seeking to disapply in the dDCO.
	Water Impoundment Licence under Section 25 of the Water Resources Act 1991	Environment Agency	Water Impoundment Licences are required from the Environment Agency for structures within inland waters that can change water levels and flow and construction works requiring the diversion of larger watercourses resulting in the impoundment of water.	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and the works required for diversion of watercourses. Discussions are ongoing in relation to agreement to disapply Section 25 in the dDCO.	Section 25 is a Prescribed Consent which Highways England is seeking to disapply in the dDCO.
	An environmental permit under the Environmental Permitting (England	Environment Agency	A Water Activity Permit (formerly	Discussions with the Environment Agency have	This is a Prescribed

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:	Relationship to the draft DCO
	and Wales) Regulations 2016		discharge consent) is required for the discharge or entry of any poisonous, noxious or polluting matter, waste matter trade or sewage effluent to an inland freshwater, coastal waters or relevant territorial waters. It also permits disturbance of existing sediments being held back by a structure or the cutting or uprooting of a substantial amount of vegetation in any inland freshwaters or so near to any such waters that it falls into them, where it is not reasonable to take steps to remove the vegetation from these waters. The permit will be required for run off associated with construction works and the dewatering of	taken place on the potential impact of the Scheme and the discharge into the water environment required as a result of the Scheme. Discussions are ongoing in relation to agreement to disapply the 2016 Regulations in relation to discharge in the dDCO.	Consent which Highways England is seeking to disapply in the dDCO.

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:	Relationship to the draft DCO
			excavations.		
	Flood Risk Activity (Environmental) Permit under the Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	A Flood Risk Activity Permit is required for the permanent flood risk associated with the creation of the viaduct over River Great Ouse as main river.	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and the requirement for a viaduct over the River Great Ouse. Discussions are ongoing in relation to agreement to disapply the 2016 Regulations in relation to discharge in the dDCO.	This is a Prescribed Consent which Highways England is seeking to disapply in the dDCO.
	Flood Risk Activity (Environmental) Permit under the Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	A Flood Risk Activity Permit is required for any temporary structures altering water levels in main rivers.	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and the requirement for a working platform associated with the construction of the viaduct over the River Great Ouse. Discussions are ongoing in relation to agreement to disapply the 2016 Regulations in relation to discharge in the dDCO.	This is a Prescribed Consent which Highways England is seeking to disapply in the dDCO.
	Approvals from the Bedfordshire and River Ivel Internal Drainage Board	The Bedfordshire and River Ivel	Required for Works to Rockham Ditch, South	Discussions with the River Ivel IDB have taken place on the	Highways England are

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:	Relationship to the draft DCO
	under the Bedfordshire and River Ivel Internal Drainage Board Byelaws 1985 (Land Drainage Byelaw consents)	Internal Drainage Board	Brook and potentially Stone Brook as these areas fall under the statutory control of the Bedfordshire and River Ivel IDB. In relation to the watercourses labelled StB2 and StB3 on Figure 13.1 of the Environmental Statement [TR010044/APP/6.2] , Highways England believe that these watercourses are maintained by the IDB but if they are not, then the LLFA will be the Central Bedfordshire Drainage Board.	potential impact of the Scheme and the requirement for land drainage consents as a result of the Scheme. Discussions are ongoing in relation to an agreement to disapply these Byelaws in the dDCO.	seeking to disapply in the dDCO provisions of any byelaws made under section 66 of the Land Drainage Act 1991 and the provisions of any byelaws made under, or having effect as if made under, paragraph 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991. These provisions are both Prescribed Consents.
	Approvals from the Central Bedfordshire Council Drainage Board under the Central Bedfordshire	Central Bedfordshire Council Land	Land drainage consents are required for works to Stone	Discussions with Central Bedfordshire Council have taken place on the potential	Highways England are seeking to

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:	Relationship to the draft DCO
	Council Land Drainage Byelaws 2016 (Land Drainage Byelaw consents)	Drainage Byelaws	Brook - see STB1 and potentially StB2 and StB3 on Figure 13.1 of the Environmental Statement [TR010044/APP/6.2]. Highways England believe that watercourses STB2 and STB3 are maintained by the Bedfordshire and River Ivel IDB but if they are not, then the LLFA will be the Central Bedfordshire Drainage Board.	impact of the Scheme and the requirement for land drainage consents as a result of the Scheme. Discussions are ongoing in relation to an agreement to disapply these Byelaws in the dDCO.	disapply in the dDCO provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991 and the provisions of any byelaws made under, or having effect as if made under, paragraph 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991. These provisions are both Prescribed Consents.
	Land Drainage Consent under Section 23 of the Land Drainage Act	Internal drainage board or Lead	Consent under the Act is required for certain	Discussions with the LLFAs have taken place on the	Section 23 is a Prescribed

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:	Relationship to the draft DCO
	1991	Local Flood Authorities	works that may affect the flow in ordinary watercourses. This includes the following works: <ul style="list-style-type: none"> • structures (if they encroach into the channel); • diversions; and • realignment. 	potential impact of the Scheme and the requirement for land drainage consents as a result of the Scheme. Discussions are ongoing in relation to agreement to disapply section 23 of the Land Drainage Act in relation to discharge in the dDCO.	Consent which Highways England are seeking to disapply in the dDCO.
	Trade Effluent Consent under the Water Industry Act 1991	Local water undertaker	For the purposes of discharging trade effluent from welfare facilities.	The requirement for a Trade Effluent Consent will be discussed with the relevant local water undertaker should it be required during the construction phase.	Highways England are not seeking to disapply this consent in the dDCO.
Noise and Vibration	Section 61 consents under the Control of Pollution Act (1974) if requested by the Local Authority	Local Authority	This consent offers the applicant protection from any subsequent action by the local authority under Section 60 or Section 66 of the Control of Pollution Act 1974 or under the Environmental Protection Act 1990 to	An application for a Section 61 consent will be made directly between the contractor and the local authority should it be considered necessary during the construction phase.	Highways England are not seeking to disapply this consent in the dDCO.

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:	Relationship to the draft DCO
			impose further controls on noise from the site.		
Material Assets and Waste	Control of Asbestos Regulations 2012	HSE	Required for any work with asbestos.	Given the age of the buildings to be demolished it is possible that asbestos will be encountered, as such a licence may be needed. If required, a licence will be sought by the contractor prior to work taking place.	Highways England are not seeking to disapply this requirement in the dDCO.
	Waste exemptions for waste operations such as U1 (use of waste in construction) and T15 (treating waste aerosol cans) (if exemption limits can be met) (Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2016)	Environment Agency	A waste exemption may be required for the use, storage, treatment or disposal of limited quantities and types of material during construction of the Scheme. This will be dependent on the nature of the activities taking place during the construction phase.	The Environment Agency will be informed of Highways England intention to seek such exemptions prior to the start of construction activities in the location where these exemptions are required.	Highways England are not seeking to disapply this in the dDCO.
	Environmental Permit for waste	Environment	An Environmental	This will be discussed with the	Highways

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:	Relationship to the draft DCO
	operations (Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2016)	Agency	Permit may be required if the borrow pits cannot be restored under the CL:AIRE Definition of Waste: Development industry Code of Practice (DoWCoP).	Environment Agency post DCO consent. It is currently envisaged that the borrow pits will be restored using excavated material arising, that passes re-use acceptability criteria (based on findings of quantitative risk assessment), from the Scheme and the area being used for the borrow pits would be reinstated with the intention of returning the borrow pits to agricultural standards. It is therefore anticipated that this permit will not be required. However, this will be kept under review during the detailed design phase in consultation with the Environment Agency.	England are not seeking to disapply this in the dDCO.
	Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	A mobile plant permit for crushing operations or site permits will be required if a subcontractor without a mobile plant permit is used.	Post DCO consent, discussions will take place with the Environment Agency in advance of construction works requiring crushing and mobile plant permits to determine the need for these permits.	Highways England are not seeking to disapply this in the dDCO.
	CL:AIRE Materials Management	Environment	It is considered that	Post DCO consent, agreement	Highways

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:	Relationship to the draft DCO
	Plan CL:AIRE (2011) Definition of Waste: Development Industry Code of Practice (v.2) (DoWCoP)	Agency	the majority of soil and other materials excavated during the works would be re-used within the Order Limits following guidance in CL:AIRE (2011) DoWCoP.	will be sought from the Environment Agency that they are satisfied that the DoWCoP route is acceptable for the earthworks proposed at the site and that the correct procedures have been followed.	England are not seeking to disapply this in the dDCO.
Building Demolition	Local Authority (section 80 notice under the Building Act 1984 and Building Regulation compliance)	Local Authority Notice	For the demolition of buildings, written notice is required to be submitted to the Local Authority (and if applicable, an occupier of any adjacent building, public gas supplier and public electricity supplier) setting out the building and the related demolition works intended to be carried out.	Discussions with the Local Authorities where demolition is required as a result of the Scheme have taken place. Notice of demolition will be given post DCO consent once precise details in relation to the methodology for demolition and timing of the demolition works proposed are known.	Highways England are not seeking to disapply this in the dDCO.
Consent / licence for the felling of trees	Felling Licence - The Forestry Act 1967	Local Authority / Forestry Commission	Powers for the removal of trees for the construction of the Scheme including trees protected by	Discussions will take place with the Forestry Commission post consent, once the precise requirements for a Felling Licence have been	Highways England are not seeking to disapply this in the dDCO.

Issue:	Consent/Licence/Agreement & Legislation:	Consenting Authority:	Requirement:	Status of negotiations:	Relationship to the draft DCO
			<p>Tree Protection Orders are sought within the DCO. However, trees that are felled for purposes other than construction e.g. ecological enhancement may require approval from the Forestry Commission under a Felling Licence. This involves notifying the Forestry Commission in advance of felling additional trees. Certain tree felling can be carried out under an exemption however limitations apply to area of size and so a felling licence may be required.</p>	<p>established.</p>	