

Ms Patten  
Case Manager  
National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Your ref:  
Our ref: AD/Is  
Date: 12 March 2021

Dear Ms Patten,

**Planning Act 2008 (as amended) – Section 55  
Application by Highways England for an Order Granting Development  
Consent for the A428 Black Cat to Caxton Gibbet Road Improvement  
Scheme**

**Adequacy of consultation request**

Thank you for your letter dated 26<sup>th</sup> February regarding the adequacy of the consultation and publicity undertaken by the Applicant at the pre-application stage.

I understand from your letter that the Planning Inspectorate has received an application by Highways England for an Order Granting Development Consent for the A428 Black Cat to Caxton Gibbet Road Improvement Scheme and must decide by 26<sup>th</sup> March 2021 whether or not to accept the application.

Central Bedfordshire Council has been invited to inform the Planning Inspectorate whether it considers that Highways England has complied with the following duties:

- Duty to consult (section 42 of the Planning Act 2008)
- Duty to consult the local community (section 47 of the Planning Act 2008)
- Duty to publicise (section 48 of the Planning Act 2008)

We have focused the consultation on Chapter 2 of Part 5 of the Planning Act 2008, which outlines the procedures to undertake before submitting an application. As part of its duty under this consultation the Planning Inspectorate has provided Central Bedfordshire Council with a link to the applicant's "Consultation Report", which details how they understand they have complied with the procedures of the Planning Act 2008 relating to consultation and publicity. The content of the Consultation Report has been assessed and forms the basis of Central Bedfordshire Council's response to the Planning Inspectorate under section 55 of the Planning Act 2008.

**Central Bedfordshire Council**

Priory House, Monks Walk  
Chicksands, Shefford  
Bedfordshire SG17 5TQ

**Telephone** 0300 300 8000

**Email** [customer.services@centralbedfordshire.gov.uk](mailto:customer.services@centralbedfordshire.gov.uk)  
[www.centralbedfordshire.gov.uk](http://www.centralbedfordshire.gov.uk)

## **Planning Act 2008 Section 42 – Duty to Consult**

Section 42 of the Planning Act 2008 is worded as follows:

*The applicant must consult the following about the proposed application:*

- a) Such persons as may be prescribed*
- b) Each local authority that is within section 43*
- c) The Greater London authority if the land is in Greater London, and*
- d) Each person who is within one or more of the categories set out in section 44.*

The applicant has complied with subsection (b) of section 42 as it has consulted with Central Bedfordshire Council.

It is considered in the opinion of Central Bedfordshire Council that the consultation under section 42 has been carried out in a proper manner and meets the requirements in the Planning Act 2008.

## **Planning Act 2008 Section 47 – Duty to consult local community**

Section 47 of the Planning Act 2008 is worded as follows:

- 1) The applicant must prepare a statement setting out how the applicant proposes to consult, about the proposed application, people living in the vicinity of the land.*
- 2) Before preparing the statement, the applicant must consult each local authority that is within section 43 about what is to be in the statement.*
- 3) The deadline for the receipt by the applicant of a local authority's response to consultation under subsection 2 is the end of the period of 28 days that begins with the day after the day on which the local authority receives the consultation documents.*
- 4) In subsection 3 "the consultation documents" means the documents supplied to the local authority by the applicant for the purpose of consulting the local authority under subsection 2.*
- 5) In preparing the statement the applicant must have regard to any response to consultation under subsection 2 that is received by the applicant before the deadline imposed by sub section 3.*
- 6) Once the applicant has prepared the statement, the applicant must publish it –
  - a) In a newspaper circulating in the vicinity of the land and*
  - b) In such other manner as may be prescribed.**
- 7) The applicant must carry out consultation in accordance with the proposals set out in the statement.*

It is considered in the opinion of Central Bedfordshire Council that the consultation under section 47 has been carried out in a proper manner and meets the requirements in the Planning Act 2008.

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## **Planning Act 2008 Section 48 – Duty to publicise**

Section 48 of the Planning Act 2008 is worded as follows:

- 1) The applicant must publicise the proposed application in the prescribed manner.*
- 2) Regulations made for the purposes of subsection 1 must, in particular, make provision for publicity under subsection 1 to include a deadline for receipt by the applicant of responses to the publicity.*

It is considered in the opinion of Central Bedfordshire Council that the consultation under section 48 has been carried out in a proper manner and meets the requirements in the Planning Act 2008.

### **Conclusion**

Central Bedfordshire Council acknowledges that the applicant has fulfilled the commitments and objectives set out in the Statement of Community Consultation, therefore Central Bedfordshire Council considers that the applicant has complied with the requirements of sections 42, 47 and 48 of the Planning Act 2008.

Notwithstanding the above the Council are disappointed that the draft DCO itself was not the subject of any discussions with the authority before it was submitted and therefore the Council will have to raise any concerns through the formal hearing process which is not ideal. However, the Council do not think that this point on its own should lead the Council to consider that overall the consultation has been inadequate.

We will look to work positively with Highways England before the examination commences and during to ensure the best possible scheme can be delivered to the benefit of highway users and the local communities; whilst adhering to the timeframe of the Examining Authority.

I trust that these comments are of assistance.

Yours sincerely



**Andrew Davie**

AD – Development and Infrastructure

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