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12th March 2021

The Planning Inspectorate  
National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Sent by email to: [A428.Blackcat@planninginspectorate.gov.uk](mailto:A428.Blackcat@planninginspectorate.gov.uk)

Dear Ms Patten

**PLANNING ACT 2008 (AS AMENDED) SECTION 55 – APPLICATION BY HIGHWAYS AGENCY FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A428 BLACK CAT TO CAXTON GIBBET ROAD IMPROVEMENT SCHEME.**

Thank you for your letter dated 26<sup>th</sup> February 2021 requesting a representation from this Council on the adequacy of consultation and whether this Authority considers that the developer has complied, in relation to this application, with the required duties.

**Duty to Consult Under the Terms of the Act**

I can confirm that the Cabinet of Huntingdonshire District Council formally considered the Statutory Consultation relating to the above in its role as a statutory consultee and Tier 1 Authority at its meeting held on 18<sup>th</sup> July 2019 ([see Minute 22](#)).

At that meeting the Cabinet were provided with an outline of the consultation on the proposals for improving the route of the A428 between the Black Cat roundabout and Caxton Gibbet roundabout, including the construction of a new dual carriageway and a number of new junctions. Members were advised that key messages in the draft response developed in conjunction with partner organisations included the importance of the project and the request for it to be progressed sooner rather than later, the need for multimodal transport solutions and the benefits of commencing improvement works from the Caxton Gibbet end of the scheme. The need for consideration to be given of the A1 as part of the A428 improvement scheme was also noted.

Due to the timing of the consultation, Cabinet resolved to delegate authority to submit the Council's final consultation submission comments on the A428 Black Cat to Caxton Gibbet Improvements to the Head of Development and Planning Service Manager (Growth), in consultation with the Executive Leader and Deputy Executive Leader.

The Council has continued to work, in partnership with Cambridgeshire County Council and South Cambridgeshire District Council, with Highways England to provide input to the proposals in order to seek the best possible solution for Huntingdonshire and the wider area.

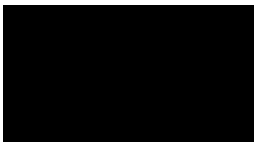
A joint response by the Council with Cambridgeshire County Council and South Cambridgeshire District Council has been prepared and issued in response to the Adequacy of Consultation – a copy of which is attached for your information. It is considered that the Council had been properly consulted as required and that the developer, namely the Highways Agency, has complied with the required duties under the terms of the Planning Act 2008. However, the Council would wish to make note that due to the availability of key documentation such as the Environmental Statement and continuing discussions relating to various matters therein, that it has not yet been possible to reach full and final agreement with the Highways Agency on all pre-application matters.


I would like to reiterate the Council's continued strong support in principle for the proposed A428 improvement scheme. It is considered critical to the delivery of the ambitious growth agenda for the area. This scheme will support that growth and forms part of the wider scheme Cambridge – Milton Keynes – Oxford (CaMkOx) Expressway. It is one of a number of nationally significant infrastructure projects in the area which collectively support the economic agenda for growth and provide a multi-modal local and regional transport network including East West Rail. Following the past year and the impact of CV19 the Council remains committed to the economic recovery potential this scheme unlocks.

The Council will continue to work proactively with Highways England and our partners to consider any outstanding issues with a view to agreeing as much as possible through the Statement of Common Ground process.

In the meantime, if you require any clarification on any of the above matters, please do not hesitate to contact my Implementation Team Leader, Claire Burton on (01223) 616841 or [claire.burton@huntingdonshire.gov.uk](mailto:claire.burton@huntingdonshire.gov.uk)

Yours sincerely



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Enc: Joint Adequacy of Consultation Response

My ref: A428 AoCR 120321  
Your ref:

Date: 12th March 2020

Contact: Chris Poultney  
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**Place and Economy  
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BY EMAIL ONLY

Dear Candice

**Application by Highways England for an Order Granting Development Consent for the A428 Black Cat to Caxton Gibbet Road Improvement Scheme: Adequacy of Consultation Response**

Thank you for your letter dated 26<sup>th</sup> February requesting views on the adequacy of the pre-application consultation in respect to the Application by Highways England (hereafter "the Applicant") for an Order Granting Development Consent for the A428 Black Cat to Caxton Gibbet Project. This letter represents a joint response from the Cambridgeshire local authorities, representing Cambridgeshire County Council, Huntingdonshire District Council and South Cambridgeshire District Council (hereafter "the Authorities"). South Cambridgeshire District Council have requested that their response is considered as provisional until 17th March to allow for formal cabinet approval of the joint response.

The Planning Inspectorate (PINS) has invited the Authorities to advise whether the Applicant has complied, in relation to the application, with the following duties under the Planning Act 2008 (as amended) (PA2008):

**Duty to consult - PA2008 – section 42**

Section 42 requires consultation with certain persons specified in the Act and prescribed in regulations.

**Duty to consult the local community - PA2008 – section 47**

Section 47 requires applicants to prepare a "Statement of Community Consultation" (SoCC) in consultation with relevant Local Authorities which sets out how the Applicant intends to consult the local community on its proposals. The Applicant must then publish the SoCC and undertake statutory consultation in accordance with it.

**Duty to publicise - PA2008 – section 48**

Section 48 requires that details of the statutory consultation be publicised via a series of notices in the local and national press.

Other sections of the Planning Act are relevant along with the Ministry of Housing, Communities and Local Government's (MHCLG) 'Planning Act 2008: Guidance on the pre-application process' (2015), the Environmental Impact Assessment Regulations (2017), and PINS advice notes 2 and 14.

The Authorities are aware that the Applicant has consulted on a non-statutory basis in 2017, and then carried out two Statutory Consultations in June 2019, and again in June 2020. In addition, the Authorities responded to the Scoping Consultation from PINS in May 2019.

### **Statement of Community Consultation (SoCC)**

The Authorities were consulted in February 2019 as part of the preparation of the SoCC, and had the opportunity to make comments and suggestions, with the draft SoCC provided in March 2019. This is set out in the Consultation Report, in Appendices F-I.

The Applicant undertook the 2019 pre-application Statutory Consultation in compliance with their stated consultation methodology and the commitments set out in the SoCC. The 2020 Statutory Consultation, which was unfortunately impacted by the coronavirus pandemic, restricting meetings and public events, was carried out effectively.

Notwithstanding the impacts of the pandemic, the Authorities consider that the Applicant has consulted on the terms set out in their Statement of Community Consultation. It appears that the Applicant has consulted all appropriate Rights of Way and Non-Motorised User groups, including local groups. However, it is difficult to tell from the Consultation Report. It would have been useful to have a table summarising the user groups consulted for easy reference.

The Authorities do not have any concerns regarding the *process* adopted for the consultation or compliance by the applicant with publicity requirements. Indeed, the Authorities would like to commend the Applicant on the process of their Statutory Consultation in 2020, which was carried out during the first peak of the coronavirus pandemic. The consultation was one of the first major scheme Statutory Consultations administered and held online to reflect the conditions at the time, but featured innovations which then became widely adopted for future events during the coronavirus pandemic. A 'virtual consultation room' was available and was widely promoted. It was very successful and secured a good level of responses.

### **Consultation Content**

The Authorities do have concerns regarding the level of technical information provided as part of the consultation in certain areas. The detail of those concerns is set out below and in the Appendix. In overview, the Authorities believe that greater technical information should have been provided to them during the consultation process, as was requested by the Authorities, in order for the Authorities to understand properly the impacts of the scheme and any necessary mitigation. This would have enabled one of the key objectives within the SoCC to have been more effectively met, namely to "enable potential mitigation measures to be considered and, if appropriate, built into the Scheme before our DCO application is submitted". However, the Authorities do *not* consider that this means that the public has not been adequately consulted or that the Applicant has failed in its duties under ss.47 and 48. Further, on the basis that the Authorities expect that the Applicant will rapidly undertake a programme of engagement with the Authorities to provide the technical information requested, the Authorities consider that any concerns regarding the lack of information provided can be remedied and should not be considered as affecting acceptance of the Application by the Secretary of State.

The Authorities have raised these issues before. In the Joint Response of July 2019, the Authorities noted that there was limited technical information provided in certain areas, specifically around traffic and environmental information, and on the impact of the scheme. An extensive response was provided to the Applicant at both Statutory Consultations. The Authorities understand that the Applicant's response is now contained in the Consultation

Report submitted with the Application, in Appendices U and V, with a separate Appendix W covering some of the traffic modelling issues raised. It is disappointing that this information was not shared with the Authorities prior to the application being submitted as requested by the Authorities and agreed by the applicant, and as recommended in PINS Advice Note 14, and the approach is noted as not assisting the assessment process.

It is hard to see, in the time available, the evidence of how the Authorities' responses have been addressed and any changes made in response, with much of the detail being contained in the application documents and therefore not yet available. The Authorities have been clear that without sufficient information being shared prior to the submission of the application, we have had to reserve our position on agreeing many matters, so our representations to the Statutory Consultations to date should not be considered a definitive list of issues. Officers look forward to working with the Applicant to resolve any matters within the application as part of developing the Statement of Common Ground and associated discussions around Requirements, Protective Provisions, and Development Consent Obligations.

## **Technical Engagement**

The Authorities have attended many meetings requested by the Applicant. These have often been presentation style events where the emphasis has been on providing information. Unfortunately, many of the points raised and questions asked by the Authorities are recorded but not followed up consistently. A series of Technical Working Groups was set up to discuss detailed matters but haven't met consistently within the last 12 months.

Briefings have been provided on different areas which have been useful in some cases but have unfortunately not included very much technical detail for the Authorities to consider and make informed suggestions and recommendations in respect of scheme development.

As an example, the Authorities had asked for details of the borrow pits proposed in the area, so that any impacts could be adequately evaluated as part of the environmental impact assessment process. Limited information on this was provided in the June 2020 consultation. A meeting on the optioneering report was attended by the Authorities a day before submission but provided too little detail, too late. This may now need to be the subject of representations and considered during the hearing stage. The Authorities are concerned that the control over the borrow pits appears to be through the Environmental Management Plan. The works are effectively mineral extraction and landfill sites for which the County Council as Minerals and Waste Planning Authority would normally have a number of planning conditions on any normal Minerals and Waste permission. The suggestion is that there will just be one condition and that will be to comply with the Environmental Management Plan. At this stage there are no proposals that have been shared to assess the site-specific impacts.

The Authorities have been extremely clear that they have been willing and keen to progress a number of technical areas in advance of the application being submitted to ensure meaningful consultation was undertaken and a chance provided to not only shape the scheme, but use the Authorities' local knowledge to input on the early Environmental Impact Assessment (EIA) findings and topics to be considered in the draft Development Consent Order (DCO) to avoid delays or objections needing to be raised at the submission stage. The Authorities set out in the attached Appendix the issues that would have been best addressed more fully prior to the application, but do not consider that they have affected the soundness of the consultation.

The Authorities note that several of the key issues raised as part of the previous consultations are stated to be addressed in the Environmental Statement which is yet to be published. As a consequence, there remains a concern that insufficient technical details have been provided to the Authorities to take a considered view on the impacts of the scheme at this stage, which

will need to be assessed post-submission and could extend the time required for the Authorities to produce our Local Impact Report. It is noted in the Consultation Report that some areas seem to have been addressed by the Applicant and others are only 'noted'. It is unclear what 'noted' means in this context.

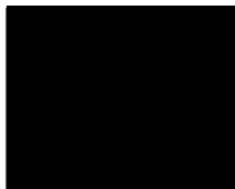
## **Conclusion**

The Authorities note that it would have been helpful to have had more technical involvement in the pre-application process across the disciplines. Although all the Authorities strongly support the scheme being progressed at the earliest possible opportunity, it is important that the impacts, mitigation, and proposals are fully understood and assessed. The Authorities look forward to engaging with the Applicant in a structured and integrated way across the disciplines to resolve the issues set out, and discuss and agree details, and modifications to the application if required, as well as relevant Requirements, Protective Provisions, Development Consent Obligations, and legal matters

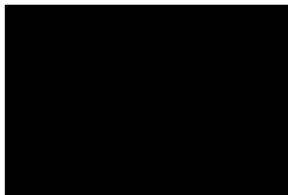
For the avoidance of doubt, notwithstanding the concerns we have raised in this letter regarding some of the engagement with the Authorities, we reiterate that we consider the consultation to have met the requirements of ss. 42, 47 and 48 of the Planning Act 2008. We would not wish the scheme to be delayed on the grounds of lack of provision of the technical information and other engagement with the Authorities requested.

The Authorities strongly support the proposal coming forwards as a key element of the strategic development of the Oxford-Cambridge Arc and as an improvement to the Strategic Road Network, and trust that all concerns raised to date with the Applicant can be satisfactorily resolved post-submission. We have provided our views here with the intention of setting out for the Applicant our expectations for the pre-Examination phase, and to assist PINS in understanding where we may be seeking additional comfort through that period.

Yours sincerely



Steve Cox Executive Director, Place and Economy, Cambridgeshire County Council



Nigel McCurdy: Corporate Director - Place, Huntingdonshire District Council



Stephen Kelly: Joint Director for Economy and Planning, Greater Cambridge Shared Planning Service on behalf of South Cambridgeshire District Council

## **Appendix – Detailed Issues**

Some detailed issues are set out here. The Authorities have provided an indication of their expectations post-submission from the Applicant, with many matters requiring discussion, clarification, and agreement. The Authorities are confident that all issues can be resolved with suitable engagement and discussion.

### **Highways**

Comment: There has been no discussion specific to Cambridgeshire County Council in its capacity as Highway Authority regarding the agreement of Requirements, Protective Provisions and Development Consent Conditions relating to the highway network and adoptable assets resulting from the scheme. This has been requested with the Applicant but hasn't been addressed.

These matters will need to be discussed and agreed post-submission.

### **Traffic**

Transport modelling and related matters have benefitted from a number of presentation style workshops by the Applicant. The Authorities have been clear that there is a need to understand the detail given local concerns and impacts. The strategic model (base year and forecast) has been shared by the Applicant's consultants, but questions that have been raised have not always been responded to, and the detailed operational models requested have not been provided. These are key to understanding impacts on the local road network.

The impacts of the scheme and traffic flows on St Neots, the largest market town in Huntingdonshire, need to be fully understood and mitigated where required. Further detail on this has been requested but nothing has been provided which would have been very helpful to have been provided prior to submission for consideration by the Authorities. This would have allowed areas of concern to be addressed ahead of submission of the DCO helping to address any local residents concerns regarding the impact of the scheme.

We note that the Applicant acknowledges that there is going to be a higher volume of traffic at Girton Interchange but disappointingly does not offer a solution beyond 'monitor and manage'. This remains a crucial matter for the authorities and one that would need further commitment from the Applicant as part of the Statement of Common Ground discussions.

These matters will need to be discussed and agreed post-submission.

### **Environmental Statement**

The Authorities note that for technical disciplines across the environmental statement including air quality, noise, construction management plan and traffic management, landscaping, borrow pits et al there has been limited information shared pre-application. There have been a number of work packages issued covering some individual elements such as ecology, and landscaping but these have been lacking in detail such as baseline information to respond to.

### **Flooding and Drainage**

Surface water management work packages have included detail regarding the impacts of the scheme through hydraulic modelling and implementation of attenuation features to manage surface water flood risk and flood plain compensation. The work packages have also detailed the works proposed to watercourses, such as redirection, areas of culverting and where

watercourses may be stopped up to for the proposed carriageway. The concern the Authorities have is that the comments made by the Lead Local Flood Authority (LLFA) are not being observed and responded to and all flood risk correspondence are being directed to other members of the consultation. Watercourse alterations and surface water proposals will need to be discussed directly with the LLFA. The LLFA is the approving body to works on watercourses under the Land Drainage Act 1991 and there are concerns regarding the works that are currently proposed, which do not seem to have been amended during the consultation period. These are key elements to agree early on in the next stage of the scheme to ensure that there is no detriment to the downstream networks.

### **Draft Order**

The structure of the Development Consent Order was presented at a briefing in December 2020. Points were made by the authorities including a request for discussion of Requirements and Protective Provisions. There has been no further engagement on these matters, and it is disappointing that the relevant draft Order documents were not shared with the authorities. On the basis that key clauses in the DCO that govern delivery and will significantly affect the Authorities ongoing statutory duties, including as the Highway Authority, this omission is disappointing. Furthermore in a meeting one day before the submission, the Applicant was unable to confirm if a particular topic area was included in the draft DCO, which does not align with guidance set out in MHCLG's 'Planning Act 2008: Guidance on the pre- application process' (2015).

Discussion with the Applicant will be required to understand their proposals and secure any comfort required by the Authorities post-submission. More effective and meaningful engagement would have allowed the Authorities to have input on the DCO ahead of submission, which is easier for all parties rather than using the formal process to make any necessary amendments.

### **Landscape and Biodiversity**

The Authorities remain concerned about the relatively narrow focus of the project to land within the defined application red line, including concerns around how tightly the red line has been drawn which fails to learn from the A14 DCO process. This decision may have impacts on any mitigation required outside of the red line boundary, as well as limiting the opportunity for wider scheme benefits including biodiversity and zero carbon. It is noted that the biodiversity net gain of 20.5% is indicated. This is encouraging but it would have been beneficial to see these studies before the DCO submission so that there is clarity on how this is to be achieved.

The Authorities welcome the statement in the Consultation Report about a 20.5% net gain in Biodiversity and look forward to reviewing the detailed mitigation and enhancement proposals.

### **Historic Environment**

Submissions were made on the Preliminary Environmental Information Report (PEIR) and the Statutory Consultation of July 2020. The focus of this latter consultation was specified as being on the

- Changes to the development
- Boundary (known as the Order limits), and
- Changes to the design of the scheme.

The submissions aimed to seek ways in which the scheme's impact on the historic environment could be minimised, presenting cases where only slight modification to the red line boundary (Order limits) would avoid known archaeological sites (and the expense of excavation, publication and archiving the evidence), leaving such sites intact, and also to design changes of scheme features to omit impacts to the archaeological resource.



While the Authorities response to formal consultations is shown in A428 Black Cat to Caxton Gibbet improvements TR010044 Volume 5, 5.2 Consultation Report Appendices Appendix V: Tables evidencing regard had to supplementary consultation responses and additional consultations (in accordance with s49 of the Planning Act 2008), it is only now that a formal response to the Authorities comments is available, in the negative, without suitable design reasons as to why our requirements and suggested amendments could not be achieved.

Despite providing much advice, the Authorities have not yet seen the Archaeology Mitigation Strategy, including finalised areas for excavation or avoidance, or the intentions of the Public Engagement Strategy (for archaeology: includes participation, display and interpretation) – an essential element of extensive and innovative archaeological programmes of this magnitude. This will be a key area to resolve with the Applicant.

### **Construction Impact**

The authorities are keen to ensure that there is early engagement with local communities, especially those most impacted by the proposed scheme and during its construction phase. Measures to minimise potential rat running during the scheme construction need to be considered and communicated as early as possible. A 'monitor and manage' approach to traffic impacts of the scheme on the villages is required.

Issues anticipated during the construction phase should be mitigated by a robust commitment in the form of a Construction Management Plan agreed with the Authorities

### **Asset Information and Rights of Way**

The Cambridgeshire County Council Asset Information team welcomes the consultation that there has been to date on the A428 scheme with regard to Public Rights of Way and Non-Motorised Users (NMUs) and the opportunity that the scheme presents to resolve historic severance issues in the local network and to improve the connectivity of the rights of way network to make it fit for the present and future needs of local communities and user groups.

The Authorities acknowledge the positive action of establishing five Technical Working Groups (TWGs) to cover a range of aspects related to the scheme, and welcomed the setting up of a Walkers, Cyclists and Horse Riders Group in Sept 2019, which has resulted in changes following feedback from the user groups attending. We believe that more detailed engagement over NMU and PROW issues would have been beneficial.

Time will be needed to resolve outstanding issues post-submission.

In addition, although the above TWG was set up, CCC expected another TWG to have been set up with CCC as Highway Authority focussing on public rights of way legal and asset maintenance issues. This was successfully done for the recent and ongoing A14 scheme and is an important technical sub-group essential to ensure that new PROW and NMU provisions meet the appropriate legal and highway authority requirements in accordance with CCC's statutory duties and statutory Rights of Way Improvement Plan.

This group should be set up as soon as possible post-submission.

It is also noted that a 'highway assets' TWG has not yet been brought forward. This is a critical component of the partnership discussions that will be required between the affected local highway authorities and the Applicant, in order to address both the strategic aspects of the new highway assets to be adopted by the relevant authorities, and the specific requirements that these authorities have in respect of asset infrastructure. Indeed, had consultations on these subjects been held at an earlier stage, matters related to asset

boundaries could have been broached and potentially resolved prior to the submission of the DCO. These matters have potentially complex legal implications if unresolved and therefore the benefit of approaching them during a consultation phase can be felt during and after delivery of the scheme.

This group should be set up as soon as possible post-submission.

With the above in mind it is noted that the detailed comments the Asset Information service provided during 2020 in respect of the draft DCO plans and schedules do not appear to have been fully addressed by the scheme designers.

Whilst it is very positive that CCC as Highways Authority was consulted on certain matters relating to PROW/NMUs asset management, a greater degree of interaction on the content of the consultation responses would have been welcomed prior to DCO submission.

Agreement of design, handover, and process matters will be required post-submission.

### **Statement of Common Ground**

The discussion and agreement of a Statement of Common Ground has been limited to one meeting with substantive content in October 2020. A draft document provided by the Applicant in December 2020 contained limited information and referred repeatedly to the application documents, which haven't been shared. It is disappointing that even key principles have not been discussed and agreed in advance of the detailed and technical issues in the application.

Time will be required to agree these areas post-submission.