



## HEARING AGENDA

### Application by Highways England for an Order Granting Development Consent for the A428 Black Cat to Caxton Gibbet Improvements

#### Issue Specific Hearing 1 (ISH1)

#### Early clarification on Strategic Matters

##### Date

Wednesday 18 August 2021

##### Timings

Arrangements Conference: 01:30 pm

Hearing Start Time: 02:00 pm

##### Location

Virtual event on Microsoft Teams

#### Requested Attendees

1. Applicant
2. Historic England (HistE)
3. Natural England (NE)
4. Environment Agency (EA)
5. Cadent Gas Limited
6. Bedford Borough Council (BBC)
7. Central Bedfordshire Council (CBC)
8. Cambridgeshire County Council (CCC)
9. South Cambridgeshire District Council (SCDC)
10. Huntingdonshire District Council (HDC)
11. East West Rail Company (EWR)

In addition, the Examining Authority (ExA) welcomes involvement from all parties at the Issue Specific Hearing.

#### Purpose for the Issue Specific Hearing 1

The main purpose of the Issue Specific Hearing is to clarify and get views on strategic matters relating to:

1. the need for the proposed development, giving consideration to the intended EWR scheme, the recently published Decarbonising Transport document and the revised National Planning Policy framework (NPPF);
2. assessment of alternative junction designs at Black Cat and the demolition of Brook Cottages;
3. environmental effects including the high pressure pipeline diversion, Habitat Regulations Assessment, good design and flooding; and
4. some key matters relating to the draft Development Consent Order (DCO).



These matters are covered in some detail in the ExA's intended First Written Questions (WQ1). At the Hearing we are looking for clarity on the Applicant's strategic approach on the matters listed here, and parties' views on that approach. We expect the representations at the Hearing to set the scene for the more detailed responses to WQ1.

## Documents

The ExA referred to several documents in the preparation of this agenda, and some of the documents that we will be referring to during the Hearing are listed here. Most of these documents can be located using the Examination Library reference number in [] square brackets. A few that are not in the Examination Library, are available on the gov.uk website:

1. draft Development Consent Order (dDCO) [APP-025];
2. Transport Assessment Part 2, Appendix F [APP-242];
3. Works Plans Part 1 [APP-009] and Works Plans Part 2 [APP-010];
4. Consultation Report Appendix B – Options consultation and PRA booklet [APP-035];
5. Environmental Statement (ES) Chapter 6 - Cultural Heritage [APP-075];
6. ES Figure 6.2 - Designated Heritage Assets (Sheet 3 of 9) [APP-100];
7. ES Appendix 6.10 Brook Cottages Heritage Appraisal [APP-178];
8. Black Cat Junction Design Options [APP-247];
9. ES Archaeological Mitigation Strategy [APP-238];
10. ES Pipeline Statement [APP-248];
11. ES Appendix 4.4 - Screening Assessment of proposed gas pipeline works for the purposes of section 20 of the Planning Act 2008 [APP-158];
12. ES Habitats Regulations Assessment: No Significant Effects Report [APP-233];
13. ES Flood Risk Assessment [APP-220];
14. Flood risk assessments: climate change allowances, July 2021;
15. National Planning Policy Framework, 2021; and
16. Decarbonising Transport: a better, greener Britain, 2021.

## AGENDA

The Hearing will start promptly at the indicated time of 2:00 pm. All other times in the Agenda are indicative. The ExA will close the meeting at 5:45 pm, or sooner if all relevant matters have been covered.

### **01:30 pm Arrangements Conference**

1. Registration by the Case Team



**02:00 pm**

**Issue Specific Hearing 1** (session 1)

1. Welcome by Lead Member of the Examining Authority (ExA)
2. Procedure for running the virtual Issue Specific Hearing
- 3. Need for the Proposed Development**
  - a. East West Rail
    - i. Update from EWR on the current stage of development of the EWR scheme, including when more detailed information will be available
    - ii. The regard that has been given to the intended EWR scheme in assessing the need and benefits for the Proposed Development
    - iii. Understanding of any interdependencies between the EWR scheme and the Proposed Development
  - b. Decarbonising Transport: a better, greener Britain
    - i. Implications (if any) of Government's commitments set out in Decarbonising Transport: a better, greener Britain in relation to the Proposed Development, including any intended revisions to existing submissions
  - c. Revised NPPF
    - i. Implications (if any) of the revised NPPF in relation to the Proposed Development, including any intended revisions to existing submissions
  - d. De-trunking proposals
    - i. explanation as to why de-trunking of the existing A428 is a necessary part of the draft DCO and Proposed Development

**03:00 pm**

**Break**

**03:15 pm**

**Issue Specific Hearing 1** (session 2)

**4. Assessment of Alternatives**

- a. Black Cat Junction – Option Selection Process
  - i. Overview of the approach adopted for assessment of alternatives, and the consideration given to the Historic Environment
  - ii. Alignment with relevant Policy documents, particularly the National Policy Statement National Networks (NPS NN); the NPPF; and the Bedford Local Plan 2030



- iii. Consideration given to alternative locations for the junction, for instance to the east
  - iv. Reasons for changing the Black Cat Junction options to include the demolition of Brook Cottages, and the subsequent consultation process
  - v. Reasons for changing the design of the Black Cat Junction in Option C+?
- b. Implication of Black Cat Quarry closure on the assessment of alternatives
- i. Consideration given to the closure of Black Cat Quarry on the design and alignment of Black Cat Junction and adjoining routes
  - ii. With reference to the Environmental Impact Assessment (EIA) Regulations 2017<sup>1</sup> would the closure of the Black Cat Quarry mean that further consideration of reasonable alternatives would be necessary
- c. Demolition, removal of Brook Cottages
- i. Process and reasoning for selecting the junction and route alignment option that requires the demolition of Brook Cottages
  - ii. Consultation process with BBC, HistE, and relevant Interested Parties

## 5. Environmental Effects

- a. High pressure pipeline diversion
- i. Update on the planning application to CBC to excavate archaeological remains affected by the pipeline diversion
  - ii. Timescales for the archaeological excavation work and other scenarios that need to be considered in the Examination
  - iii. To discuss the information provided in the ES with regards to any likely significant effects associated with the pipeline diversion
- b. Habitats Regulations Assessment (HRA)
- i. Update on the Barbastelle bat surveys requested by NE; will the surveys be undertaken and if so, over what timescale?
  - ii. The expected contribution of surveys requested by NE to the current understanding of the effects of the Proposed Development on the Barbastelle bat population of the

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<sup>1</sup> The Town and Country Planning (Environmental Impact Assessment) Regulations 2017



- Eversden and Wimpole Woods Special Area of Conservation (SAC)?
- iii. If the surveys are not undertaken, or would not be completed within the timescales of the examination, or would not alter the current understanding of matters, can no Likely Significant Effects (LSE) be concluded?
  - iv. ES [APP-077, paragraph 8.6.24] concludes that Barbastelle bats are likely to forage or pass through the Order Limits. If LSE cannot be excluded, then is there currently sufficient evidence in the application to conclude that the integrity of the Eversden and Wimpole Woods SAC would not be adversely affected by the Proposed Development?
- c. Good design
- i. If there is adequate information about visual appearance (scale, height, massing, alignment, and materials) and location of structural elements in the Application to assess good design and visual impact
  - ii. Any further information on the design of structural elements that can be expected in the Examination and timescales
  - iii. If parties are clear about and satisfied with the design development process for detailed design aspects
  - iv. Consideration given to the requirement for high quality, beautiful and sustainable places contained in the NPPF 2021 (paragraph 126) in the Proposed Development
- d. Flood Risk
- i. Implication of the Government's climate change allowances for flood risk, published on 27 July 2021, on the Proposed Development
  - ii. Updates to the Flood Risk Assessment (FRA) in light of these allowances (if required) and timescales
  - iii. If the FRA needs to be updated, would this be likely to change the conclusions in the ES?

## 6. draft Development Consent Order

- a. Land adjacent to order limits
- i. The provision secured through Article 4 which refers to land within or adjacent to the Order limits
  - ii. The provision secured through Article 23 which refers to land which is adjacent to, but outside the Order limits
  - iii. Definition of scope and extent of land adjacent to order limits, where is it secured, and how can it be monitored or controlled



- b. Pre-commencement
  - i. If the definition of pre-commencement should be in Article 2
  - ii. Including details about pre-commencement works in the First Iteration Environmental Management Plan
- c. Advance works
  - i. The definition of advance works with respect to the pipeline diversion works, referred to the Explanatory Memorandum and Pipeline Statement
  - ii. Is it the same as pre-commencement works
  - iii. Definition of advance works and securing it in the dDCO
- d. Associated Development
  - i. Explanation of the Applicant approach to not differentiate the NSIP and associated development works in Schedule 1
  - ii. Justification of the inclusion of 'further associated development within the Order limits' listed in paragraphs (a) to (u)
  - iii. Whether the works described in paragraphs (a) to (u) are too broadly defined
- e. Compulsory acquisition of rights and imposition of restrictive covenants
  - i. Explanation of the broad scope of Article 28(1), and the lack of statement in the Explanatory Memorandum
  - ii. If it requires clarity that Article 28 only applies to the plots listed in Schedule 5
  - iii. Or if undefined rights are sought on land not listed in Schedule 5, then should this intent be clearly identified and the need for it justified in the Explanatory Memorandum and Statement of Reasons
  - iv. Basis for consultation with persons with an interest in the Order land
- f. Temporary use of land for carrying out the authorised development
  - i. Justification and explanation of Article 40(9)(a), if it allows the creation of permanent rights under Article 28(1) over land which is intended for Temporary Possession alone
  - ii. If persons with an interest in that land have been consulted on the basis that their land is sought for Temporary Possession but the Applicant has the ability to create undefined new rights over this land (identify in the Statement of Reasons, Book of Reference and the Land Plans)



- g. Limits of deviation
  - i. Justification for no maximum limit of horizontal deviation in metres in the dDCO;
  - ii. Justification for the range in limits of horizontal deviation in the Works Plans [APP-009 and APP-010], which appears to extend up to approximately 100m in Composite Sheets 4, 5, 6, 8, 10, 11.

**04:45 pm**      **Break** (if required)

**05:00 pm**      **Issue Specific Hearing 1** (session 3, if required)

- 7. Any pending matters within the agenda items listed above
- 8. Closing remarks

**05:45 pm**      **Close of Issue Specific Hearing 1**