

Summary of issues and matters agreed

Welcome Break Services Limited ("Welcome Break") are broadly supportive of Highways England's application for development consent (the "Application") for the A428 Black Cat to Caxton Gibbet Road Improvement scheme (the "Scheme"). The key issues which summarise those matters set out in Welcome Break's Relevant Representation and in this Written Representation, being the matters which otherwise lead to Welcome Break objecting to the Application and the Scheme are:

- (i) The inconvenience to road users caused by the revised egress from the Wyboston Service Area ("WSA") to the A-road;
- (ii) The extent to which trade at the WSA will be interfered with;
- (iii) The failure of the applicant to meet the Scheme objectives and national policy objectives;
- (iv) The applicant's failure to consider viable alternative proposals;
- (v) The applicant's failure to meet the statutory tests for compulsory purchase powers in relation to the

Engagement with Highways England and alternative proposals

1. Welcome Break engaged with the applicant during the pre-application stage of the Application with a view to ensuring that it is fully informed of the impact of the Scheme on Welcome Break's business, particularly as a result of permanent infrastructure changes (as opposed to interference or inconvenience during the construction of the Scheme), primarily being the impact of the revised egress from the WSA to the A-road.

2. As set out in Welcome Break's Relevant Representation the egress from the WSA will be replaced with a 1km 30mph service road which will not directly join the A-road but will instead run to the roundabout to the south of the WSA. No traffic lights are proposed at the roundabout making phasing of traffic difficult for visiting members of the public who are leaving the WSA. The outcome of this is that WSA will generally be less commodious for visiting members of the public and the egress in particular will be a material and unwelcome change. This will impact on both the quality of the services experience for visiting members of the public and materially impact Welcome Break's business and that of its tenants.

3. We have addressed this further below, however for the purposes of this section of the Written Representation the key point is that despite Welcome Break's efforts to engage with the applicant and present technically viable alternative proposals for the design of the egress which would be more commodious to visiting members of the public and maintain or improve the quality of their journey, informed by Welcome Break's considerable experience in operating motorway service stations, the applicant has failed to acknowledge or seek to address Welcome Break's concerns or to properly investigate any such alternative arrangements.

4. Despite the applicant meeting the statutory minimum required in terms of consultation and engagement with interested parties, it has not sought to engage in a meaningful discussion or to address either at the pre-application or since, including in the Application documents, either the impact of the proposed egress on Welcome Break and its tenants' businesses or the impact on journey quality for visiting members of the public or consider the viable alternatives presented to it.

DMRB guidance

5. Although not set out in the Application documents, we understand that the applicant has disregarded proposed alternatives for the egress at WSA as these proposals would be departures from the Standard. However, several of the applicant's own proposals within the wider Scheme are departures from the Standard. Departures are permitted in a number of circumstances including where features on site make it advantageous to do so or where following the Standards would have unintended and undesirable consequences. The applicant has failed to address why it has permitted departures in relation to its own proposals but not for those of third parties such as Welcome Break particularly where such a departure would be relevant to achieving policy objectives (see further below).

Relevant policy considerations

6. The summary of needs at Section 2 of the National Policy Statement for National Networks (the "NPS") states that the Government's vision and strategic objectives for the national networks includes networks which support and improve journey quality, reliability and safety. The NPS fails to expand on this particular point, however it must be the case that service areas are a critical aspect of journey quality and any impact on service area businesses that make them less attractive services to road users would be contrary to and cut-across the Government's strategic objectives.

7. Paragraph 4.31 of the NPS states that "a good design should meet the principal objectives of the scheme by eliminating or substantially mitigating the identified problems by improving operational conditions and simultaneously minimising adverse impactsâ€". Paragraph 4.33 states that "the applicant should therefore take into account, as far as possible, both functionality (including fitness for purpose and sustainability) and aestheticsâ€". Further, paragraph 4.35 states that "applicants should be able to demonstrate in their application how the design process was conducted and how the proposed design evolvedâ€". The applicant has not followed the policy statements in terms of its approach to the WSA. It has not presented any evidence or information in the Application documents that demonstrates that the design of the revised egress from the WSA meets the principal objectives and has either failed to have regard or disregarded without due justification proposed alternatives to the design that relate to functionality and fitness for purpose.

8. Although the policy statements in paragraphs 4.31, 4.33 and 4.35 of the NPS will typically relate to a scheme in its entirety, the fact of the matter is that schemes such as the Scheme which is the subject of the Application are made up of several distinct features and design proposals, each with separate characteristics and purposes but which jointly achieve an overall objective. The changes to the egress of the WSA are one such feature and design proposal. A failure to address the policy consideration in relation to any one aspect of a scheme need not be fatal to the merits of its entirety but neither does a failure to properly address or engage with policy objectives in relation to any one aspect make that aspect acceptable simply because other aspects of the scheme do.

Applicant's objectives and justification for the Scheme

9. Paragraph 2.2.1 of document 1.2 "Introduction to the Application" sets out the applicant's objectives for the Scheme. These include "c. Economic growth: Enable growth by improving connections between people and jobs and supporting new development projects" and "g. Customer satisfaction: Listen to what is important to our customers to deliver a better road for everyone and improve customer satisfaction". Table 5-1 of document 7.1 "Case for the Scheme" sets out that one of the strategic objectives of policy is to "support and improve journey quality, reliability and safety". However, the corresponding comment on conformity with policy does not address services such as WSA, it is focussed almost exclusively on traffic flow, journey times and

safety, neither has any evidence been presented by the applicant that it has taken into consideration the impact of changes to the egress to the WSA on the objectives of the Scheme, particularly customer satisfaction.

10. In Welcome Break's experience as a motorway service area operator an important aspect of the value of such services to the quality of the journey of members of the public is the close proximity to the A-road or motorway of the services and the ease with which they are able to both enter and exit the service area and return to that same road. The absence of evidence in the Application documents that the applicant has considered this or targeted its consultation questions at discovering the level of value placed on such convenience indicates that the Scheme is ill-conceived. Such evidence would also be relevant to the economic impact of the Scheme on the services and their ongoing viability including as a local employer. Consequently, the applicant is not able to demonstrate that its objectives will be met. The focus of the Application is on the highway to the exclusion of those uses that are nevertheless relevant to the Scheme such as the WSA.

11. In paragraph 2.2.5 of document 4.1 "Statement of Reasons" the applicant states that the Scheme is required for three key reasons being network safety, to relieve congestion and to enable economic growth. Paragraph 2.5.3 of that same document states that "in relation to the land required for the Scheme, the Applicant has taken into account all requests for changes to the Scheme arising as part of the consultationâ€". The key reasons for the Scheme fail to account of the role of other land uses such as the WSA in delivering some of the key objectives. Notably paragraph 4.3 of document 4.1 the "Statement of Reasons" in relation to "existing land use and character" fails to identify the WSA as a key land use and part of the road network. This failure has led to the Scheme undermining both the Scheme objectives and the key reasons for it in so far as it impacts on the WSA. The applicant has clearly not taken into account Welcome Break's proposed alterations to the Scheme contrary to its statement in relation to the land required for the Scheme.

12. Paragraph 5.2.2 of document 4.1 the "Statement of Reasons" identifies the statutory tests for compulsory purchase which include that there is a compelling case in the public interest for the land to be acquired compulsorily" and paragraph 5.2.5 of that same document further sets out general considerations which include "a) tha