

A428 Black Cat to Caxton Gibbet improvements

TR010044

Volume 8

8.8 Draft Statement of Common Ground with East West Rail

Planning Act 2008

Rule 8(1)(e)

Infrastructure Planning (Examination Procedure) Rules
2010

August 2021

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Examination Procedure) Rules 2010**

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

**8.8 Draft Statement of Common Ground with
East West Rail Company Limited**

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Author	A428 Black Cat to Caxton Gibbet Improvements Project Team, Highways England

Version	Date	Status of Version
Rev 1	31 August 2021	Final for Deadline 1

STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Highways England Company Limited and (2) East West Rail Company Limited.

Signed.....
Anne-Marie Rogers
Senior Project Manager
on behalf of Highways England
Date: 31 August 2021

Signed.....
[NAME]
[POSITION]
on behalf of East West Rail Company Limited
Date: [DATE]

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1 Introduction

1.1 Purpose of this document

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared in respect of the A428 Black Cat to Caxton Gibbet improvements (the Scheme) made by Highways England Company Limited (Highways England) to the Secretary of State for Transport (Secretary of State) for a Development Consent Order (the Order) under section 37 of the Planning Act 2008 (PA 2008).
- 1.1.2 This SoCG has been produced to confirm to the Examining Authority (ExA) where agreement has been reached between the parties to it, and where agreement has not (yet) been reached. SoCGs are an established means in the planning process of allowing all parties to identify and so focus on specific issues that may need to be addressed during the Examination.

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by (1) Highways England as the Applicant and (2) East West Rail Company Limited (EWR Co).
- 1.2.2 Highways England became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain and enhance the network. Regulatory powers remain with the Secretary of State. The legislation establishing Highways England made provision for all legal rights and obligations of Highways England, including in respect of the Application, to be conferred upon or assumed by Highways England.
- 1.2.3 EWR Co is a Government owned company set up by the Secretary of State for Transport in 2018. EWR Co has been tasked by the Government with the delivery of the East West Rail project (EWR Project). The EWR Project will connect Oxford and Cambridge by rail.

1.3 Terminology

- 1.3.1 In Section 3 of this SoCG:
- a. "Agreed" indicates where the issue has been resolved.
 - b. "Not Agreed" indicates a final position, and
 - c. "Under discussion" where these points will be the subject of on-going discussion wherever possible to resolve, or refine, the extent of disagreement between the parties.

1.3.2 It can be taken that any matters not specifically referred to in the Issues chapter of this SoCG are not of material interest or relevance to EWR Co's representation and therefore have not been considered in this document. It is recognised however that engagement between both parties will need to continue due to their joint vested interest in the area of the Scheme.

1.4 Status of this Statement of Common Ground

1.4.1 This is Version 1 of the draft Statement of Common Ground, which has been agreed with EWR Co for submission in draft for Deadline 1 of the examination of the DCO application on 31 August 2021.

2 Record of Engagement

2.1.1 The parties have been engaged in consultation since the beginning of the proposed development. A summary of the meetings and correspondence that has taken place between Highways England and EWR Co in relation to the Application is outlined in **Table 2-1**.

Table 2-1 - Record of Engagement

[Records of Engagement Under Development]

Date	Form of correspondence	Key topics discussed and key outcomes
26/11/2018	Email	Email from Highways England to EWR Co sharing plan of most current design development for the routes.
13/12/2018 – 19/12/2018	Email	Emails between Highways England and EWR Co regarding preferred format for alignment plans (shapefile) and re-sending of plans in that format so that EWR Co can incorporate the Scheme into their own maps.
14/12/2018	Email	Email from Highways England to EWR Co providing a formal update regarding the A428 Black Cat to Caxton Gibbet scheme and suggesting a meeting in the new year to discuss how communications may work between the two schemes.
16/09/2019	Email	Email from AECOM to EWR Co stating that a shapefile will be sent over this week with the 3D geometry of the A428 Black Cat to Caxton Gibbet improvements scheme.
07/02/2020	Email	Email from Highways England to various stakeholders including EWR Co attaching an advance copy of the project update on the A428 Black Cat to Caxton Gibbet improvements. The document included the main findings of the consultation in 2019.
13/02/2020	Email	Email from Highways England to EWR Co inviting an EWR Co representative to the upcoming workshop for the A428 Black Cat to Caxton Gibbet improvements scheme (see table row for 25/02/2020).
18/02/2020	Email	Email from A428 project team to EWR Co to provide update on scheme, namely the consultation held between 6 March and 23 April 2017, and the subsequent route option chosen.
21/02/2020	Email	Email from Highways England to Economic and Benefits Technical Working Group attaching slides for the Economic and Benefits Technical Working Group on Tuesday 25 February and outlining the agenda.

Date	Form of correspondence	Key topics discussed and key outcomes
25/02/2020	A428 Workshop	EWR Co attended a Highways England workshop for the A428 Black Cat to Caxton Gibbet improvements scheme, focused on maximising the local skills and employment outcomes of the scheme. This workshop was set up to explore areas of opportunity, the desired outcomes and how these could be achieved/realised, whether the project team had all the right parties together, and what funding streams were available.
24/03/2020	Meeting	<ul style="list-style-type: none"> • A428 Project Update. • EWR Project Update. • Environmental Update. • Discussion on information sharing. • Discussion on scheme interfaces and potential joint working.
15/04/2020	Email	Emails between EWR Co and A428 Archaeology Lead discussing benefits of common objectives and data sharing. It was agreed that the A428 team could update EWR Co on evaluations, ideas for early access to some sites and discussions with Historic England and district curators.
21/05/2020	Meeting	EWR Co attended Highways England's A428 Strategic Stakeholder Board meeting (via Teams).
05/06/2020	Email	Invitation from Highways England to members of Technical Working Groups (including EWR Co) to attend an online meeting on 25/06/2020 during which an update on the scheme would be provided.
08/06/2020	Email	Invitation from Highways England to EWR Co to attend the next Community Forum meeting on 26/06/2020.
22/06/2020	Email	Email from Highways England to members of Technical Working Group (including EWR Co) with link to access online event on 25/05/2020 and agenda.
24/06/2020	Email	Email from Highways England to EWR Co advising that the supplementary consultation for the scheme was launching that day. Shared links to the virtual consultation room as well as supporting consultation materials.
25/06/2020	Meeting	Supplementary Consultation Briefing held online by Highways England for Technical Working Group (including EWR Co) during which an update on the A428 scheme was provided.

Date	Form of correspondence	Key topics discussed and key outcomes
30/06/2020	Email	Email from Highways England to Technical Working Group meeting attendees (including EWR Co) sharing slides from the session and a video link to re-watch the meeting.
09/07/2020	Email	Email from EWR Co to Highways England requesting 3D design data in the context that two of the EWR Project station option locations would have significant direct interface with the A428.
16/07/2020	Email	Email from Highways England to Technical Working Group Meeting attendees (including EWR Co) attaching minutes and presentation from the session and sharing a recording of the session and inviting feedback.
29/07/2020	Email	Email from EWR Co to Highways England attaching their representation to supplementary consultation for the scheme.
12/08/2020	Meeting	Highways England held an East Region Skills and Employment working group meeting, which was attended by EWR Co.
19/08/2020	Email	<p>Email to attendees of East Region Skills and Employment working group meeting on 12/08/2020 (including EWR Co) to share two documents:</p> <ul style="list-style-type: none"> • Draft v0.2 Terms of Reference. • Draft notes and actions from meeting. <p>Also included a proposal for another meeting on 30/09/2020.</p>
25/08/2020	Email	Email from Highways England to EWR Co providing requested information about flood modelling and extent of it.
11/09/2020	Email	Email from Highways England to attendees of Technical Working Group (including EWR Co) notifying that meetings will be paused until later in 2020 while comments made during the supplementary consultation are taken into account.
17/09/2020	Meeting	Highways England held a A428 Local Economy Legacy working group meeting, which was attended by EWR Co.
25/09/2020	Email	Email from Highways England to A428 Local Economy Legacy working group (including EWR Co) thanking for time at meeting on 17/09/200 and attaching draft notes and actions for review and input.

Date	Form of correspondence	Key topics discussed and key outcomes
01/10/2020	Email	Email from Highways England to EWR Co, to send minutes from the last meeting on 05/08/2020 and the agenda for the next meeting on 22/10/2020.
12/10/2020	Meeting	<ul style="list-style-type: none"> • A428 Project Update. • EWR Project Update. • Discussion on information sharing. • Discussion on landowners.
17/11/2020	Email	Email from Highways England to stakeholders including EWR Co providing update on feedback and concerns about resource pressure and confirming that submission will be delayed until end of January (29 th).
23/11/2020	Meeting	EWR Co meeting with Highways England to discuss potential engineering interfaces between the Scheme and EWR Project.
10/12/2020	Meeting	A428 Local Economy Legacy working group meeting.
11/12/2020	Email	Email from Highways England to A428 Local Economy Legacy working group members (including EWR Co) attaching draft notes and minutes from the session on 10/12/2020 for review.
19/01/2021	Email	Email from Highways England to stakeholders including EWR Co to confirm that as a result of COVID-19, the DCO submission will be delayed until the end of February 2021.
04/02/2021	Email	Email from Highways England to A428 Strategic Stakeholder Board (including EWR Co) outlining changes to making the board for valuable for attendees, attaching pre-briefing papers for 11/02/21 meeting.
05/02/2021	Meeting	EWR Co and Highways England agreed the principle of sharing of data between EWR Co and Highways England.
11/02/2021	Meeting	A428 Strategic Stakeholder Board Meeting
01/03/2021	Email	Email from Highways England to stakeholders including EWR Co confirming that the DCO was submitted on Friday 26 February 2021.

Date	Form of correspondence	Key topics discussed and key outcomes
23/03/2021	Meeting	Highways England held the inaugural A428 Connected Communities Legacy Working Group, 10am to 12pm, which was attended by EWR Co. The purpose of this initial session was to identify and prioritise Public Rights of Way opportunities, beyond Scheme mitigation, inside or outside the Scheme's development boundary, to improve connectivity in Bedfordshire and Cambridgeshire.
24/03/2021	Email	Email from Highways England to stakeholders including EWR Co confirming that the DCO application was accepted by the Planning Inspectorate on 23 March 2021 and that Highways England have signed a contract with Skanska PLC for the construction of the scheme, therefore Skanska will join the board going forward.
31/03/2021	Email	Email from EWR Co to Highways England announcing the next stage of public consultation on the EWR Project.
13/04/2021	Email	Email from EWR Co to Highways England, announcing that the virtual consultation rooms had gone live.
05/06/2021	Meeting	EWR Co meeting with Highways England to discuss approach to potential engineering interfaces between the Scheme and EWR Project.
21/06/2021	Meeting	<ul style="list-style-type: none"> • Scheme Update. • EWR Project Update. • EWR Project non-statutory route alignment consultation. • EWR Project timeline. • Statement of Common Ground.

2.1.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between (1) Highways England and (2) EWR Co in relation to the issues addressed in this SoCG.

2.1.3 The issues and matters highlighted in Section 3 of this SoCG summarise the key issues that have been identified in relation to a number of key areas of the DCO application. However, it should be noted that the issues raised and covered in this SoCG deal only with the matters between EWR Co and the A428 Project Team as they relate to the Scheme. The SoCG does not cover, and is not intended to cover, any wider issues or points that Highways England may have in relation to EWR Co including, but not limited to, those views of the Operational Directive.

3 Issues Raised

Table 3-1 – DCO and Legal Matters

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
Protective Provisions	Draft Development Consent Order [APP-025]	Highways England will review any draft agreements or protective provisions with a view to consider whether their use is suitable for the Scheme.	<p>EWR Co requires that suitable Protective Provisions are included in the dDCO.</p> <p>EWR Co will work with Highways England to agree Protective Provisions and other appropriate agreements during the Examination.</p>	Under Discussion	

Table 3-2 – Compulsory Acquisition and Property Matters

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
Compulsory Acquisition and Temporary Possession	<p>East West Rail's Representation to the A428 Scheme [AS-004]</p> <p>Land Plans [APP-008]; Book of Reference (BoR) [APP-032]; and Statement of Reasons (SoR) [APP-030].</p>	Highways England's application for the Scheme seeks compulsory acquisition and temporary possession powers in respect of certain land interests. The Statement of Reasons [APP-030] explains why powers are necessary to enable Highways England to use land temporarily and acquire, suspend, interfere with or extinguish rights over land and impose restrictive covenants. This is in order to	On 9 June 2021, EWR Co closed its second round of non-statutory consultation. Nine alignments were identified and reported on in the documents accompanying the second non-statutory consultation. While EWR Co remains open minded, and is currently reviewing the outputs of the second non-statutory consultation, five alignments (one, two, six, eight, and nine) were identified in the	Under Discussion	

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
		<p>construct and maintain the Scheme in a way that is both proportionate and in the public interest by reducing environmental impacts, minimising the cost (and therefore the cost to the public purse), and mitigating the impacts on affected land interests.</p> <p>As EWR Co has not yet defined its preferred route, Highways England is not aware whether there would be any overlap in terms of land interests and/or rights on or over land needed to enable the EWR Co to be constructed, and those identified in the A428 Scheme's Land Plans [APP-008], Book of Reference [APP-032] and Statement of Reasons [APP-030] (Annex 2). As such, Highways England maintains that the details submitted in the application documents in relation to compulsory acquisition and temporary possession for the Scheme remain correct.</p>	<p>consultation documentation as being shortlisted. Two of those shortlisted alignments were further identified as being potential emerging preferences for the EWR Project Co (alignments one and nine). As the output of the second non-statutory consultation is currently under review, EWR Co is not yet able to confirm the date for the announcement of the preferred route alignment.</p> <p>Confirmation as to the preferred route alignment will be provided in due course. In the meantime, EWR Co requires that suitable Protective Provisions are included in the dDCO.</p>		

Table 3-3 – Transport Matters

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
Transport and Traffic Forecasting for EWR	Highways England's response to the East West Rail (EWR) Non-Statutory Consultation in June 2021.	Within the Consultation documentation for the EWR Project, there is no evidence of demand forecasting or traffic modelling assessments having been undertaken for both the EWR Project's construction and future operations. Highways England believe construction and operational modelling assessments to be a key issue which requires early and dedicated engagement prior to EWR Co's DCO Submission.	<p>The consideration of both construction and operational impacts associated with the EWR Project will be included in any DCO submission. As the EWR Project proposals develop, EWR Co will engage with relevant highway authorities, including Highways England, to set out the construction and operational impacts and seek to agree any necessary mitigation measures.</p> <p>A Transport Assessment Scoping Report is being prepared which will be discussed with the relevant highway authorities, including Highways England. This Transport Assessment Scoping Report will set out the approach to assessment of the EWR Project.</p> <p>The traffic modelling assessments for the EWR Project are not before the Examination.</p>	Under discussion	
Traffic Forecasts – cumulative impacts	Combined Modelling and Appraisal Report	The development of the traffic forecasts and details that have been used to create the forecasts used to assess the A428 Scheme take into account a number of proposed future	A Transport Assessment Scoping Report is being prepared which will be discussed with the relevant highway authorities, including Highways England. This Transport	Under discussion	

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
	<p>(ComMA) [APP-250].</p> <p>ComMA Appendix C Transport Forecasting Package: Traffic Forecasting Report [APP-253].</p>	<p>developments. -These are included in an Uncertainty Log (UL).</p> <p>The UL was prepared for the Scheme assessment following Department of Transport (DfT) Transport Analysis Guidance (TAG) Unit M4. This draws together the future year planning data and infrastructure changes for the central forecasting assumptions that underpin the core scenario. Schemes classified as being either 'near certain' or 'more than likely' have been included in the 'core' scenarios (both with and without Scheme). Schemes categorised as either 'reasonably foreseeable' or 'hypothetical' have been excluded. This ensures a consistent approach to forecasting and the underpinning assumptions.</p> <p>In line with TAG guidance, <u>the</u> EWR Project was not included within the core scenario as it was not classified as 'near certain' or 'more than likely'.</p> <p>The EWR Project was subject to a non-statutory consultation between end of March and June 2021. Details</p>	<p>Assessment Scoping Report will set out the approach to assessment of the Project including any modelling framework, consideration of future year scenarios and associated development and infrastructure and approach to appraisal.</p> <p>EWR Co note the exclusion of the EWR Project from Highways England's core scenario but have not been provided with a copy of the Uncertainty Log (UL). EWR Co further note that the addition of the EWR Project will amend and affect the traffic model scenario presented by Highways England.</p> <p>EWR Co will continue to engage with Highways England, to ensure that the EWR Project is appropriately reflected in the traffic assessment of the Scheme.</p>		

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
		<p>of the Preferred Route are not likely to be published until 2022.</p> <p>Further details of the approach to the appraisal of the A428 Scheme are provided in the Combined Modelling and Appraisal Report (ComMA) [APP-250] and ComMA Appendix C Transport Forecasting Package: Traffic Forecasting Report [APP-253].</p> <p>For purposes of the cumulative effects assessment (CEA) undertaken as part of the Environmental Impact Assessment process, the EWR Project was categorised at the time of assessment as a 'Tier 3' development (based on the Planning Inspectorate's Advice note seventeen) as insufficient environmental was available to undertake a meaningful assessment. Notwithstanding this, Highways England continues to review the progression of the EWR Project and will accordingly update its status within the cumulative effects assessment in the event of a minimum of a scoping report being</p>			

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
		published for the project prior to, or during, the DCO Examination.			

Table 3-4 – Environment Matters

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
Cumulative Environmental Effects	Appendix 15.1 of the Environmental Statement (Long List of Other Developments) [APP-228].	<p>A cumulative effects assessment (CEA) has been undertaken in accordance with the staged assessment approach contained in the Planning Inspectorate’s <i>Advice note seventeen</i>.</p> <p>Within the CEA, the EWR Project was identified as a ‘Tier 3’ development as:</p> <ul style="list-style-type: none"> a. a scoping report had not yet been prepared; and b. information within the public domain regarding the proposed route options was limited. <p>The CEA acknowledged that whilst the scale and nature of the EWR Project could likely result in significant environmental effects in isolation, it was not possible to undertake a meaningful assessment of this development as very limited</p>	<p>The Secretary of State advised by EWR Co has not announced the preferred route alignment for the EWR Project nor applied for a Scoping Opinion from the Planning Inspectorate.</p> <p>At this stage, it is not considered that the EWR Project is a development that is of sufficient certainty to be relevant to the cumulative assessment for the A428. However, EWR Co will continue to engage with Highways England, to ensure that the EWR Project is appropriately reflected in the assessment of the A428 Scheme.</p>	Under discussion	

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
		<p>information was available regarding its likely environment effects, or when they could occur. Accordingly, the EWR Project was discounted from further consideration in the CEA. Notwithstanding this, the Applicant continues to review the progression of the EWR Project and will accordingly update its status within the cumulative effects assessment in the event of a scoping report being published for the project prior to, or during, the DCO Examination.</p>			

Table 3-5 – The Case of Need for the Two Projects

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
Case of Need for the A428	Case for the Scheme [APP-240].	<p>Both the road and rail schemes seek to address similar objectives to improve transport reliability from east to west, make journeys quicker and easier, actively protect and enhance existing communities and the environment beyond existing conditions, and ultimately unlock potential development of employment and homes across the region.</p> <p>From a local perspective, the Scheme will remove traffic</p>	<p>EWR Co agree with Highways England’s summary of the case for the Scheme.</p> <p>EWR Co’s response to the Examining Authority’s 1st Written Question 1.17.4.1(a) sets out EWR Co’s consideration of relevant national and local policy positions for the EWR Project.</p>	Agreed	

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
		<p>congestion and reduce traffic volume on smaller scale roads through communities either side of the A428, regionally, the Scheme will upgrade the final section of single carriageway to dual carriageway way between St Neots and Caxton Gibbet, enabling easier movement from east to west, and nationally, the Scheme will allow the easing of movement to the wider, national, strategic highway network, such as the M1, A5 and A6.</p> <p>Highways England seeks to provide a modern and reliable road network with fewer delays. In achieving this its aims are for a network that is free-flowing, safe, serviceable, accessible and integrated with all forms of transport. Achieving these aims can also support economic growth through creating jobs, helping businesses and opening up new areas for development. The underlying focus is to deliver long term benefits and be environmentally sustainable (Case for Scheme, [APP-240]).</p>			
Case of Need for EWR and why both the A428 Scheme and EWR	The EWR Preferred Route Option Consultation	The EWR (Bedford to Cambridge) - Preferred Route Option Report stated that all five shortlisted route options for the EWR Project were consistent	EWR Co agrees that there is a need for both the Scheme and the EWR Project.	Agreed	

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
Project are needed	Report (Summer 2021).	<p>with the National Infrastructure Commission’s (NIC) recommendation for a “multi-modal corridor between Oxford and Cambridge combining, the EWR Project and the proposed new A428 dual carriageway between Black Cat and Caxton Gibbet have the potential to create a multi-modal transport spine, which through new stations and junctions, can enable the creation of new communities.”</p> <p>Overall, both strategic schemes independently or cooperatively, have the ability to achieve the objectives of the NIC and Government in creating easier and more reliable east to west travel. The NIC states that road and rail, through the creation of a multi-modal transport corridor along the east to west arc, collectively “<i>can also improve access to jobs, services, wider national connections through the existing strategic road and rail networks and could enhance connections with international gateways, such as Heathrow. Each scheme would serve different purposes and markets, delivering benefits that are complementary to one another.</i>”</p> <p>Highways England agrees with the NIC statement above and accepts</p>			

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
		that there is a need for both the A428 Scheme and the EWR Project in order to provide easier and more reliable east to west travel.			

Table 3-6 – Construction

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
Construction of EWR	Highways England's response to the EWR Project Non-Statutory Consultation in June 2021.	Joint construction programming would need to be carefully considered, not only to minimise disruption to SRN users, but also to mitigate design conflicts, and to avoid delays in the delivery of important Government funded transport infrastructure schemes. Highways England proposes that EWR Co and Highways England plan and work collaboratively to avoid, minimise or mitigate any potential effects of overlapping construction work in the region.	EWR Co will continue to engage with Highways England, including in relation to the co-ordination of construction programming. EWR Co anticipates that the draft protective provisions to be agreed with Highways England will secure joint working as further information as to the EWR Project becomes available. This approach would promote predictability and convenience for both EWR Co and Highways England.	Under Discussion	
Scheme delivery		Due regard has been given in the design-development of the Scheme to ensure that it successfully integrates into the landscape, delivers appropriate mitigation and	EWR Co will continue to engage with Highways England, including in relation to the co-ordination of construction programming.	Under Discussion	

Issue	Document Reference	Highways England Position	East West Rail Position	Status	Date
		<p>achieves its objectives. The design of the Scheme does not preclude the EWR Project coming forward at a later date, as this could be delivered by either building over or under the A428 (should crossing of the A428 be required).</p>	<p>EWR Co anticipates that the draft protective provisions to be agreed with Highways England will secure joint working as further information as to the EWR Project becomes available. This approach would promote predictability and convenience for both EWR and Highways England.</p>		