

PLANNING ACT 2008

INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

**WRITTEN SUBMISSIONS OF NFU REGARDING THE A428 BLACK CAT TO CAXTON GIBBET
IMPROVEMENTS DEVELOPMENT CONSENT ORDER APPLICATION BY HIGHWAYS ENGLAND
PLANNING INSPECTORATE REFERENCE NO TR010044**

SUBMISSIONS OF NATIONAL FARMERS UNION ON THE – EXAMINERS FIRST WRITTEN QUESTIONS

DATE 31st August 2021

Submitted By:

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1.0 Introduction

- 1.1 Submissions on behalf of the National Farmers Union (“NFU”) in respect of the application for a Development Consent Order (DCO) by Highways England for the A428 Black Cat to Caxton Gibbet Improvements. The NFU is making a case on behalf of its members who are affected by the DCO.

2.0 First Written Questions

- 2.1 **Protective Provisions Q1.5.2.3: Changes to CA and TP:** The NFU would like to receive clarification in regard to the land take highlighted for habitat mitigation. Highways England (HE) have now highlighted in a Statement of Common Ground with the NFU that no land is being sought through compulsory acquisition for the sole purpose of contributing towards the delivery of the Scheme’s biodiversity net gain (BNG) score of 20.5%. The NFU would like to understand how this score is being achieved if land is not being compulsory acquired to achieve it.

The NFU has highlighted issues over land take for balance ponds and the location of balance ponds within existing fields. The NFU feels that with further design and negotiation over the size and location of balance ponds with farmers land take could be reduced.

- 2.2 **Borrow Pits Q1.6.2.1: Detail on Borrow Pits:** Bedford Borough Council have raised concerns over the details given for the borrow pits. The NFU in a response to a consultation raised the following concerns over borrow pits. The NFU understands that land is to be taken to create borrow pits as material, in particular clay is required to create new embankments near the Black Cat junction and the Caxton Gibbet junction. The fact sheet on borrow pits is very brief and does not really provide any detail. The NFU would like to see further information regarding the volume and type of material required from each of the borrow pits highlighted on the maps. Further detail is needed in regard to the proposed depth of the excavations across the borrow pit sites.

The NFU would expect to see details setting out of the alternatives in the area e.g. any working quarries which could provide the material required to build the road and why these alternatives are not considered acceptable. The NFU expects all alternatives to be considered thoroughly before land is included within the order limits to create borrow pits and take land out of agricultural production.

It is understood that the proposal is to take land permanently to create the borrow pits. The NFU would like to receive further information as to why the land cannot be taken on a temporary basis if as is proposed the land is to be handed back to landowners once the borrow pits have been reinstated. Clarification is needed as to whether Highways England are intending to hand back the areas taken for borrow pits for agricultural use and will Highways England be expecting landowners to have to carry out any management responsibilities on the land.

- 2.3 **Construction Compounds: Q1.6.2.2:** The NFU has requested further information in regard to the use of each compound site and for this to be set out at Schedule 7 in the draft DCO. It presently states that each compound site will be ‘ required to provide temporary storage, laydown areas, access and working space

to facilitate the construction of..’ This is very general and if as on other DCO applications like A303 Stonehenge two of the compound sites were to be used for a slurry treatment plant and a batching plant, the NFU would like to this or any similar type of plant highlighted within Schedule 7.

- 2.4 Environmental Management Plan: Content in Relevant Representation: Q1.6.3.2:** The NFU would like to clarify that an “ALO” is an Agricultural Liaison officer. The role identified presently by HE in the FIEMP is a Community Relations Manager which does not provide the equivalent function of an Agricultural Liaison Officer. The NFU as stated in their outline representation would like to see that the Main Works Contractor or HE will have to employ an agricultural liaison officer who will then work with the Community Relations Manager. An ALO will liaise with landowners, tenants and acting agents who are directly affected by the scheme.

The role we would like to see the ALO undertake has been set out in a detailed full written representation submitted by the NFU on 31st August 2021. A Community Relations Manager’s role would not normally carry out the detailed one to one liaison expected between an ALO, landowner and contractor. The role of an ALO has been agreed within many DCO applications where the NFU has represented its members.

- 2.5 Draft DCO: Articles: Article 23: Q1.7.3.17:** The NFU would like further clarification as to why HE will need to undertake surveys and investigate land outside of Order Limits and what is considered ‘adjacent to’?

The NFU after checking the wording of other DCOs believes that this is not normally requested and the DCO will only allow the undertaker to enter land within the Order limits which is affected by the authorised scheme to carry out any surveys or investigation.

Further under Article 2: Interpretation, there is no meaning of the word “adjacent”.

The NFU sees no reason as to why HE for this scheme should be allowed to undertake surveys and investigation work on land, which is adjacent to, but outside of the Order limits. The NFU would like this wording to be deleted.

Article 23 (2): The NFU would like to raise the issue that it is not whether 14 days is adequate notice for the undertaker to enter land and place equipment but whether 14 days notice is adequate notice for affected persons (landowners and farmers) for example to be able to move livestock or delay drilling. On other DCO schemes that NFU has secured that 28 days notice would be given where a derogation may be needed in regard to an environmental scheme.

- 2.6 Draft DCO: Articles: Article 40: Q1.7.3.22:** The NFU as above would like to raise the issue that it is not whether a 14 day notice is adequate for the undertaker to take temporary possession of land but whether a 14 day notice is adequate notice for a landowner/farmer to be able to vacate that area of land and minimise the impact on the farm business. As highlighted in the outline representation submitted by the NFU experience from other schemes is highlighting that 14 day notice is not adequate, and it is requested that 28 day notice has to be served. The NFU would like to see HE agree to this and for it to be changed in the draft DCO. HE has stated in a response to the NFU that landowners will be given prior notice via consultation to the 14 day notice being served. If it is possible to give prior notification, then the NFU sees no reason as to why a 28 day notice cannot be served.

