

Our Reference: CLA.D2.CL
Your Reference: TR010044

Contact: Chris Poultney

8 September 2021

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

Electronic submission only

Dear Sir / Madam,

Application by Highways England for an Order Granting Development Consent for the A428 Black Cat to Caxton Gibbet Road Improvement Scheme

Response to matters at Deadline 2 (D2) – Local Impact Report

1. Introduction

- 1.1. I am writing on behalf of Cambridgeshire County Council (20028267), Huntingdonshire District Council (20028273) and South Cambridgeshire District Council (20028271) (the Cambridgeshire Authorities) to submit to the Examining Authority (ExA) matters for Deadline 2 (D2) of the A428 Black Cat to Caxton Gibbet Road Improvement Scheme (the Scheme) Development Consent Order (DCO) Examination. The matters addressed are set out below.

2. Local Impact Report

- 2.1. Included with this submission is the following document:
 - Joint Local Impact Report: document reference CLA.D2.LIR
- 2.2. The Local Impact Report is a joint submission on behalf of the three authorities that gives details of the likely impacts of the proposed development on the authorities' administrative areas.

3. ISH1 Action Point 11: Definition of 'commence'

- 3.1. Action Point 11 from Issue Specific Hearing 1 asked local authorities to elaborate on the works excluded from the definition of 'commence' in the draft DCO (dDCO) [REP1-003] that would need controls either through First Iteration EMP or other means
- 3.2. The definition of "commence" is contained at Article 2 of the dDCO, as follows:

"commence" means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations and mitigation works, environmental surveys, pre-construction mitigation works, investigations for the purpose of assessing and monitoring ground conditions and levels, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, temporary hard standing, receipt and erection

of construction plant and equipment, diversion and laying of underground apparatus and utilities, protection works, demolition (save in relation to Brook Cottages), site clearance, construction compound set up, and the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

3.3. The importance of the definition of ‘commence’ in the dDCO is that it provides the trigger for:

- 3.3.1. the completion of and requirement to comply with the Second Iteration EMP (paragraph 3 of Schedule 2 to the dDCO);
- 3.3.2. the completion of and requirement to comply with the traffic management plan (paragraph 11 of Schedule 2 to the dDCO);
- 3.3.3. the completion of and requirement to comply with the written details of the surface and foul water drainage system (paragraph 13 of Schedule 2 to the dDCO); and
- 3.3.4. the completion of and requirement to comply with the detailed floodplain compensation scheme (paragraph 14 of Schedule 2 to the dDCO); and
- 3.3.5. the completion of and requirement to comply with the written details of the proposed noise mitigation for the use and operation of the (relevant part of the) authorised development (paragraph 18 of Schedule 2 to the dDCO) [we note that this relates to the use and operation of the authorised development, not its construction].

3.4. The definition of ‘commence’ in Article 2 of the dDCO carves out of the definition a long and wide-ranging list of activities, many of which are quite significant construction activities – we highlight in bold those of most potential concern:

- 3.4.1. archaeological investigations and mitigation works,
- 3.4.2. environmental surveys,
- 3.4.3. **pre-construction mitigation works,**
- 3.4.4. investigations for the purpose of assessing and monitoring ground conditions and levels,
- 3.4.5. **remedial work in respect of any contamination or other adverse ground conditions,**
- 3.4.6. erection of any temporary means of enclosure,
- 3.4.7. **temporary hard standing,**
- 3.4.8. **receipt and erection of construction plant and equipment,**
- 3.4.9. diversion and laying of underground apparatus and utilities,
- 3.4.10. **protection works,**
- 3.4.11. **demolition** (save in relation to Brook Cottages),

3.4.12. **site clearance,**

3.4.13. **construction compound set up,** and

3.4.14. the temporary display of site notices or advertisements.

3.5. The activities listed above could all be carried out without the various plans and written details referred to in paragraph 3.3 being in place.

3.6. Only the archaeological mitigation strategy and biodiversity pre-commencement plan might apply to the activities pursuant to paragraphs 9 and 20 of Schedule 2 to the dDCO. However, we are not certain of that in relation to the bio-diversity pre-commencement plan as that applies to 'pre-commencement operations' which does not appear to be defined in the dDCO. We request confirmation from the applicant and clarification in the drafting that all the activities excluded from the definition of commence, as listed in paragraph 3.4 above are 'pre-commencement operations' for the purposes of paragraph 20 of Schedule 2 to the dDCO, so that the biodiversity pre-commencement plan will apply.

3.7. The Examining Authority asked for specific examples of matters of concern, by way of non-exhaustive illustration, we flag the following:

| Activity excluded from 'commence' | Concern | Absent protection |
|---|--|--|
| pre-construction mitigation works | There is no clarity as to what this term might encompass, or how significant the works might be. It could encompass works for flood, traffic, noise or other environmental mitigation. It appears odd to carry out works of mitigation for areas before the relevant plans relating to mitigating such impacts have been approved. It is difficult to gauge the possible scale of these works. | EMP traffic management plan written details of the surface and foul water drainage system detailed floodplain compensation scheme written details of proposed noise mitigation |
| remedial work in respect of any contamination or other adverse ground conditions, | These works could be significant with high potential environmental impact. They could require significant HGV movements. | EMP Traffic management plan |
| temporary hard standing | This could have drainage and other related impacts. | EMP written details of the surface and foul water drainage system |

| Activity excluded from 'commence' | Concern | Absent protection |
|--|---|--|
| | | detailed floodplain compensation scheme |
| receipt and erection of construction plant and equipment | This could have significant traffic impacts as well as potential noise impacts | EMP Traffic management plan |
| protection works | Again, it is difficult to gauge the scale of such works without further clarification, but they could be significant. | EMP traffic management plan written details of the surface and foul water drainage system detailed floodplain compensation scheme |
| demolition | Works of demolition can cause significant dust and noise impacts as well as HGV movements. | EMP traffic management plan |
| Site clearance | Site clearance can cause significant dust and noise impacts as well as HGV movements. | EMP traffic management plan |
| construction compound set up | This could have significant traffic impacts as well as potential noise impacts | EMP Traffic management plan |

3.8. We are of the view that the Requirements in Schedule 2 to the dDCO and / or the definition of 'commence' in article 2 to the dDCO be amended so that the 'absent protection' we highlight in the table above should be approved before and applicable to the various activities we highlight above unless the Applicant can demonstrate to us and the Examining Authority what other appropriate protections are in place.

Yours faithfully,

Steve Cox
Executive Director for Place and Economy
Cambridgeshire County Council

Clara Kerr
Strategic Growth Manager
Huntingdonshire District Council

Chris Carter

Delivery Manager Strategic Sites

Greater Cambridge Shared Planning Service on behalf of South Cambridgeshire District Council