

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

The Examining Authority's written questions and requests for information (WQ2)

Issued on Friday 15 October 2021

Q2.1.1.1 Equality Impact Assessment

The EQIA states that "*Further actions have been undertaken to ensure that any freeholders, leaseholders and tenants affected by the demolition of properties are more widely supported. This has included working with those potentially affected and local authorities to identify alternative housing options in the area that fulfil the needs of tenants where required*" [APP-245, Page 23].

- a) Applicant and BBC, summarise the progress that has been made in this regard.

The Council is not aware of discussions in this regard, further information has been sought from the applicants.

Q2.3.2.1 Metric for calculating BNG

- e) NE and LAs, please provide comments on the revised BNG assessment using the DEFRA 2.0 metric, submitted by the Applicant [REP3-012] [REP3-013].
- f) NE, LAs, Applicant, comment on the DEFRA 2.0 metric net gain of 16.48% Habitat units, the net gain of 9.96% of River units and the net loss of -31.66% Hedgerow units, in contrast to the BNG score of 20.5% using the Highways England Metric. How would you describe the overall impact of the Proposed Development on biodiversity and does this affect the ES conclusions in this regard?

Q2.3.5.1 Adequacy of mitigation measures

- c) NE and LAs to comment on the adequacy of measures in quantitative, qualitative, and locational terms.

Q2.3.6.1 Mitigation measures

- c) Include comments from LAs in the Joint Position Statement with the Applicant and NE on Drainage Ponds [REP3-026].

Q2.5.3.4 Dove House Farm, The Lane, Wyboston

- g) What is BBC's view on the alternative highway proposals put forward by the Duncan and Maxine Buchanan, including the changes proposed to Roxton Road Bridge [REP3046] [REP3-047].

The Council cannot identify any benefits as the Local Highway Authority.

The proposal will also cause HGVs accessing Payne's yard to pass through the residential section of The Lane. This will impact on the residents of this area who currently do not have HGVs running passed their properties as the existing access is from the A1.

Q2.5.3.6 Land to the South and East of the current Black Cat roundabout

- a) Besides the written and oral submissions regarding these matters, the ExA notes that the effect of the Proposed Development and negotiations regarding safeguarding the development of this land has been addressed in principle in the SoCG with Bedford Borough Council [REP1-012]. Provide an update on these discussions with greater detail on specific pending issues. Parties may choose to report on matters in principle in the SoCG and the Schedule of all agreements, negotiations and objections (Annex A), and provide a more detailed report in the separate Joint Position Statement.

Separate submissions to be made on this point by Consultees.

Q2.6.2.1 a)

LAs, NFU and CCE, comment on the Borrow Pits Excavation and Restoration Report [REP3-011] and provide a list of issues relating to size and location, alternatives such as any working quarries, restorations and aftercare, biodiversity, and land contamination that remain outstanding.

The Council's main concern in relation to the borrow pits within it's area has been the lack of detailed proposals for the working and restoration of the borrow pits. This affects the ability of the applicant to properly assess the environmental impact of the proposals. The report (para. 1.2.9) states that the Environmental Statement (ES) does not disaggregate and report the environmental conditions and effects of the borrow pits separately as a discreet element of the overall development. The report is an attempt to bring together the relevant sections of the ES that relate to the borrow pits. However, the report first focuses on the role of the Environmental Management Plan. The First Iteration of the EMP is at a very high level and identifies what actions are required to manage and minimise the environmental effects of the scheme and provide a blueprint for more detailed mitigation in the Second and Third Iterations. This does appear to be a 'cart before the horse' approach.

The details in the report are therefore a compilation of existing information submitted in the ES. As the Council was already aware of this and considered it deficient in terms of it's detail, the report, whilst a useful summary of information relation to the borrow pits, does not address the Council's fundamental concern.

The Section 18 (3) (c) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 states that an ES should include a description of any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment. It is considered that it is not

acceptable to propose that this is delivered by a set of high level methodologies that could be applied to any similar development.

Q2.6.2.2 Borrow pits Construction compounds

- b) Applicant and NFU, what details regarding the proposed use of construction compounds have you agreed? What matters remain pending? Have LAs been consulted? What are their views?

The submission of the Borrow Pits Excavation and Restoration Report [TR010044/EXAM/9.24] (BPERR) is welcomed. It is noted that there appears to be some differences in between the July version and the October version; these mostly appear to be additional information from the First Iteration Environmental Management Plan. Changes were noted in relation to noise, landscape, air quality. As the noted in the Council's representation it was written on the basis that the BPERR was submitted as part of the original submission. Consequently, many of the Council's concerns remain.

It is, noted that the policy assessment in the BPERR does not match the Applicant's response to the Local Impact Report (LIR) Policy Assessment, in that no reference is made to Policy 19 or 20 in the BPERR.

Unfortunately there are still outstanding areas of concern in relation to noise.

As described below, the concerns regarding the potential impact on the nearby residents through the siting of the borrow pits remain of paramount concern. The primary issue remaining is that despite repeated requests there has yet to be supplied information on noise levels from plant within the borrow pits nor the level of dust impact that will affect the residents. These issues are still outstanding and the information provided does not resolve these matters.

It has been made clear to the applicant that we are unable to advise what height any compound barriers should be without awareness of noise levels emitted from such compounds and therefore what if any level of mitigation is necessary.

Q2.7. Draft Development Consent Order

Q2.7.1.1

- a) All discharging authorities to check the Schedules in the dDCO for accuracy and provide the ExA with suggested corrections and amendments.

Requirement 24 – Register of Requirements

The undertaker is only being required to maintain a register for a period of three years following the completion of the authorised development. Local authorities are required to maintain a register of planning applications and decisions with no end date. This applies to the smallest of developments. Why is it, that some of the largest developments in the country may be 'invisible' on the planning record after such a short time? The aftercare period for maintaining the landscaping may still apply after the requirement to keep a record of the approved details has expired.

- b) The Applicant states that discharging authority for all requirements is the Secretary of State, following consultation with other bodies as appropriate, for example the relevant planning authority or relevant local highway authority [REP1-022, WQ1.7.1.3]. Applicant to confirm. LAs to comment.

The LPA would normally expect to be the determining authority for discharging the requirements due to the local knowledge of the area rather than the SofS.

Q2.7.2 Definitions

Q2.7.2.1 a) LAs do you have any comments on definition for pre-commencement as proposed by the Applicant [REP1-022, WQ1.7.2.1], and should it be included in the dDCO in addition to a pre-commencement plan. Applicant to comment.

Section 2 in Part 1 of the Order defines commencement as:

“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, preconstruction 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;

I would appear that this does not apply to the borrow pits where there are potential noise concerns in relation to site clearance and the construction compounds.

Q2.10. Good Design

Q2.10.1.1

- a) The ExA is seeking views from LAs and all parties on the content of the Applicant’s Scheme Design Approach and Design Principles [REP3-014], and if the design approach, design vision and design principles will guide the development of the detailed design post consent (should consent be granted) to deliver the following outcomes:
- i) sensitivity to place, siting and design measures relative to existing landscape, character and function (NPS NN, Paragraphs 4.29, 4.30, 4.33) (other relevant local policies [REP1-051], [REP1-054] [REP1-055]);
 - ii) producing high quality, beautiful and sustainable places (NPS NN, Paragraphs 4.29,

Chapter 12 of the NPPF) iii) meeting principal objectives of the Proposed Development, mitigating problems, minimising adverse impacts, and sustaining the improvements to operational efficiency (NPS NN, Paragraph 4.31);

iv) taking into account functionality, aesthetics, and technology (NPS NN, Paragraph

4.33); and

v) best possible integration with the surrounding landscape [REP3-014, Paragraph 3.1.1].

b) Do you feel that the design principles and features of specific structures [REP3-014, Appendix C] cover the range of physical structures, landscape features, and other measures that design principles should be set out for?

c) Do you have understanding of the rationale behind the design principles for individual structures, in relation to the immediate surroundings, for instance [REP3-014, Appendix C]?

d) Are you clear how the Scheme Design Approach and Design Principles would be secured through the DCO process, and is that adequate [REP3-014, Paragraphs 1.2.12]?

Response to a)

BBC considers that the Applicant's Scheme Design Approach and Design Principles as set out in REP3-014 will deliver the outcomes set out in 1) to v) above.

However, it is noted that in para 1.1.4 that the applicant expects limited further design progression within the parameters and principles, and that only minor changes to key structures and features will be possible. The design principles, are well progressed and there has been little opportunity to date for local authorities to input into these principles.

Response to b)

BBC considers that the design principles as set out in App C covers the range of structure and features along the route in Bedford Borough.

Response to c)

BBC understands the rationale behind the design features as set out in App C.

Response to d)

BBC understands that the Scheme Design Approach and Design Principles would remain the same in all iterations of the Environmental Management Plan (EMP). As such, BBC is keen to engage in further discussion on structure and feature details during the examination and before the First Iteration of the EMP is completed.

Q2.10.2.1 Design development process

- a) Are you clear about the design development process and which parties would be consulted through the process [REP3-014, Section 5]?
- b) Are you content with the proposed design development process and which parties would be consulted through the process [REP3-014, Section 5]?

Response to a) and b)

From reading Section 5 (and 4), it is not clear how NH will engage with stakeholders on detailed design issues. In addition, changes are expected to cover minor engineering efficiency / generation of information for construction changes. The process described in Section 5 suggests that any changes will be generated from within NH who will then engage with appropriate external stakeholders. This puts the onus on LAs and other external stakeholders to be fully aware of the design process project plan.

Q2.11.1.2

COVID-19

At Deadline 1 the Applicant provided additional submission Assessing the Potential Impacts of COVID 19 – The implications for traffic forecasts for the Scheme [REP1-029]. Do LAs and all parties broadly accept the findings of the document provided? If not explain with reasons.

BBC accepts the findings of the document provided at REP1-029.

Q2.11.1.3

Economic Sensitivity Test

At Deadline 1 the Applicant provided additional submission Economic Sensitivity Test Technical Note [REP1-027]. Do LAs and all parties broadly accept the findings of the document provided? If not explain with reasons.

BBC accepts the findings of the document provided at REP1-027

Q2.11.2 Road layout, junctions and bridges

Q2.11.2.1

- e) Do other Local Highway Authorities share the view that new highways infrastructure, for which they will be responsible for in future, should conform with DMRB?

BBC's response is that in this case, and without commenting on the general principle, the issue of highway design standard is dependent on context. The new or replacement LHA roads within Bedford Borough (excluding Black Cat junction) are either access roads to residential units (e.g. Great North Road) / private facilities (Kelpie Marina), or in the case of Roxton link, a road which provides access for units which previously had direct access to the A1 north. In this context, BBC has accepted a lower standard of design than DMRB on the basis that the new and replacement roads have been provided and designed for

specific purposes. Acceptance of a lower design standard for BBC's local roads does not imply acceptance of the principle in other LHAs or on other schemes.

Q2.11.2.2 Black Cat Junction

- a) The ExA note the response of the Applicant to ISH3 Hearing Action Points 3 and 4 was not submitted at D3. This information is critical to the ExA's understanding of the evolution of the Proposed Development and to be satisfied that reasonable alternatives were explored relating to the proposed Black Cat Junction. Provide this information at D4.
- b) Is BBC satisfied that the proposed access to the south east of the gyratory would facilitate future development intentions of the Council [RR-008a]?

To be addressed by consultants

Q2.11.5 De-trunking proposals

Q2.11.5.1

- a) Further to the Applicant's written and oral submissions received so far in the Examination [REP1-021] [REP1-022] [REP3-008], do LHAs consider that they have an accurate understanding of the condition in which the highway asset to be de-trunked will be transferred?
- b) Applicant, provide updates on the progress made on de-trunking agreements.
- c) How will LHAs' agreement to handover at a specific point in time be secured?

The mechanism for agreeing the condition in which the highway asset to be de-trunked will be transferred is via Side Agreements. BBC is still in discussion with NH on the content of the Side Agreements relating to de-trunking. From BBC's view, agreements also need to be made with the other LHAs so that de-trunking can be carried out at the same time along the entirety of the de-trunked sections. This is particularly important where there are cross boundary sections.

Q2.11.7 Construction traffic impacts

Q2.11.7.1

- a) How does your position align with the policy requirement in the NPPF (Paragraph 113) which states that all developments that will generate significant amounts of movement should be required to provide a travel plan. **LAs to comment.**
- b) Without prejudice, what is the implication of producing a Travel Plan; when can it be produced and presented into Examination; and how would this be secured? **LAs to comment.**

BBC response to a) and b)

BBC does not consider that the justification set out in REP3-019 for not producing a Travel Plan is convincing. BBC accepts that the employees will be drawn from a large area, and different operatives will have different shift patterns. Also, BBC accepts that public transport may not be an option for many employees because of the remote location of the sites.

We would normally expect the promoters / developers of a large project to provide a Framework Travel Plan at the Outline planning application stage with submission of the Final TP to be agreed up to 6 months after development begins. In this sense, the TP is similar to the OCMTTP in that principles are agreed as is a process for considering the details. Many of the mitigations which would be considered in a TP are already included in the response at D3, such as promoting shared transport, and shuttle buses between sites or from key locations.

The scale of the project suggests that employee travel behaviour will impact on the local network, and in this case, the impact and any appropriate mitigations should be logged and monitored. A TP would provide the opportunity to do so.

Q2.11.7.3 Local Highway Impacts

On the basis of the information received at D3, ISH2 Action Point 6 [REP3-019], the Applicant proposes to deal with matters relating to traffic informally diverting on to the local network during construction, primarily at source on the strategic road network with little if any measures to discourage or restrict informal traffic diverting on the local highway network. **Do LHAs consider this to be sufficient?** If not, explain with reasons. Applicant to comment.

BBC considers that it is inevitable that other network users (i.e. not construction vehicles) will divert on to local roads and not follow the diversion routes on the SRN. However BBC does not accept the premise that local routing will necessarily be related to problems on the SRN diversion routes alone. Our preferred option would be to work with NH when it becomes obvious that a local route is experiencing heavier traffic loads than expected (notwithstanding the diversion routes) and to work with NH to find a local solution, through the mechanism of the CMTP.

Q2.11.7.4

Highway condition

- a) How does the Applicant intend to ensure no damage occurs to the local highway network as a result of construction traffic using it for access during construction and how will this be secured?
- b) The Applicant states that highway condition surveys will be undertaken at all access points used by construction vehicles [REP1-022, Q1.11.7.11]. Confirm if this is solely at the point of access to the site from the local highway network or for the entire length of the road leading to and from the site from the existing strategic road network? How will this be secured?

- c) LHAs to comment.

Q2.12. Historic Environment

Q2.12.1.1 How is the Black Cat Junction option selection process and the preferred option aligned with relevant Policy documents, particularly the NPS NN, the NPPF, and the Bedford Local Plan 2030.

The LPA is awaiting the applicants submission of the option selection process in relation to heritage from the Applicant at Deadline 4 to see how this is aligned with relevant policies and will update as soon as possible.

Q2.12.2 Brook Cottages

b) BBC do you believe that "a clear and convincing justification" can be made for the removal of Brook Cottages. State if the Applicant has provided such a justification and what you consider it to be.

Yes – it seems likely that clear and convincing justification can be made for the removal of Brook Cottages, although the application has yet to demonstrate this. Justification for the removal of Brook Cottages will need to be provided within the Applicant's forthcoming evidence setting out the consideration of reasonable alternative designs and layout, as well as the methodology for the selection of the current route.

From this starting point, the Applicant should then proceed to clarify what the 'removal' of the asset specifically entails. This will initially require an invasive structural survey to establish the condition of the building as a whole; including the timber frame, infill material, chimney stacks, roof structure and internal features such as the staircase and bread oven. Following this, and assuming the building could theoretically be dismantled and rebuilt; a methodology should be provided relating to the building's dismantling, transportation and reconstruction and the potential impact on significance this will have. Finally, a suitable location for the building will need to be found – the most appropriate location will depend on numerous factors which may point either to its reuse as a domestic building (preferably within the locality) or as an exhibit in a museum.

The above is a staged process broadly in accordance with that endorsed in Historic England's Written Representation [REP1-077; paras 3.41-3.42], and is an approach both Historic England and the Council have recommended well before the Examination. Such a pathway would lead to two potential outcomes: the first would be the successful relocation of Brook Cottages, resulting in either less than substantial harm or substantial harm. The second outcome would be to find that relocation is not possible, or that its relocation would result in such loss of significance that it would effectively constitute 'total loss' of the designated heritage asset. Following the process correctly, it seems likely that in both instances the Applicant would be able to demonstrate clear and convincing justification for the removal of Brook Cottages.

At this time however, the Applicant has not provided a sufficient level of detail within the application to justify the removal of the asset. Should the Applicant

demonstrate that a feasible alternative route is not possible and that the loss of Brook Cottages is unavoidable (as requested by the ExA); the removal of Brook Cottages could be justified.

The question then turns to whether there is clear and convincing justification for the 'total loss' of the asset. In the Council's view, this has not been demonstrated in the application, but equally it is acknowledged that the Applicant has explored options to avoid total loss. One potential solution will be to amend Requirement 16 to allow for the relocation process to occur post-determination, as recommended by Historic England [3.46 of REP1-077]. Historic England have stated that in their opinion, the relocation of Brook Cottages will constitute substantial harm [REP1-009, p.24]. The Council are still not convinced that it is possible to say what impact 'removal' will have on significance (whether it is less than substantial, substantial or total loss) given the lack of relevant information (which has been requested several times); although in the absence of further information, the Council would have to advise the ExA that a level of substantial harm should be assumed as a 'worst case scenario' for the purposes of the decision-making process. At that point, a re-worded Requirement would likely be appropriate and reasonable to avoid total loss of the building if possible, and secure any public benefits which would arise from that outcome (please see the answer given to Q.2.12.2(g)).

Q2.12.2 Demolition of Brook Cottages (c)

- c) ExA considers that the effect of the Proposed Development on Brook Cottages would need to be assessed in line with Chapter 16 of the NPPF (and in particular Paragraph 201) and the intended protection for listed buildings as specified under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. BBC and HistE, comment with reasons. If so, do you believe this justification to be clear and robust in the Applicant's case?

Referencing Paragraph 201 of the NPPF would suggest that the proposed dismantling and relocation of Brook Cottages will result in either substantial harm to, or total loss of, the listed building. This is the position reached by the applicant in paras 5.5.55 – 5.5.63 of APP-240, which states that the proposal will result in substantial harm. This assessment was reached based on a non-intrusive visual assessment informing a fairly brief Heritage Appraisal [APP-178]. From this, assertions are made in the application which are not based on a sound evidence base but rather assumptions (this is confirmed in para A.5.3.4 of APP-240). A subsequent technical note [AS-009] has been submitted which is helpful in terms of additional detail regarding the significance of the building, but does not contribute to an understanding of the specific impact relocation would have on the significance of Brook Cottages.

As such, and as previously advised, it has not been demonstrated that the Proposed Development will necessarily result in substantial harm or total loss to the designated heritage asset. In the event that sufficient information relating to the specific impact of the development on the significance of the listed building is not provided by the Applicant during the Examination, then it seems reasonable to assume a 'worst case scenario' - that the development will result

in substantial harm to the significance of Brook Cottages. The test set out in paragraph 201 of the NPPF/5.133 of the NPS NN will then be applied.

The Council agree that the application needs to be considered in-line with s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. As per Section 33 (1)(i) of the Planning Act 2008, listed building consent is not separately required for the demolition of listed buildings in this instance, and so no other part of the Planning (Listed Buildings and Conservation Areas) Act 1990 is relevant.

Q2.12.2.1 Occupier(s) of Brook Cottages

Applicant and **BBC to confirm** (without specifying any personal details) if protected characteristics of S4 of the Equality Act 2010 would trigger the Public Sector Equality Duty.

The Council are not currently aware of any protected characteristics that would trigger the PSED further details have been requested from the applicants on this.

Q2.12.2.2 Black Cat Junction Options

- e) HistE, **BBC**, EA what engagement have you had with the Applicant regarding reasonable alternative options that did not entail the demolition of Brook Cottages?

No engagement in relation to Heritage regarding alternative locations which might have retained Brook Cottages in situ appear to have taken place with the Applicant.

Q.2.12.2 Surveys of Brook Cottages (g)

Applicant, would it be possible to secure potential future mitigation reliant on survey findings, in the DCO to provide greater assurance and certainty. Explain with reason and any relevant precedence. Provide suitable wording for R16 [REP1-003]. HistE and BBC may also comment.

Section 4.9 of the NPS NN states that the ExA should only recommend requirements where they are necessary and reasonable in all other aspects. Assuming that there will be an absence of further information from the Applicant during the Examination regarding the specific impact of the removal of Brook Cottages, then it is reasonable to conclude that the Proposed Development will be determined on the basis that substantial harm to the asset will arise – the 'worst case scenario'. However, the specific impact, which could be less than substantial harm, substantial harm or total loss to Brook Cottages will not be known until after the Examination process. A level of less than substantial harm would require a different test when determining the application (5.134 of the NPS NN rather than 5.133) – a test where there is a more favourable presumption for development. The Council also consider that there are public

benefits likely to arise should relocation be possible, even if the level of harm is 'substantial'; as it would avoid the total loss of the building.

This poses the question as to whether future mitigation reliant on survey findings is possible, or even reasonable, and secondly whether this can provide greater assurances now. The answer to the first part of the question likely depends on whether 'total loss' of the listed building weighs more heavily against the development than 'substantial harm' (the assumed 'worst case scenario'), and that Requirement 16 will be used to avoid, if possible, the former. In the 2013 case of *Bedford BC v SSCLG38*, substantial harm is defined as "serious such that very much, if not all, of the significance was drained away". Paragraph 18a-018 of the NPPG states that substantial harm is "a high test" where "an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest". The definition of 'total loss' is self-explanatory.

Substantial harm can arise without the total loss of a designated heritage asset and so the two are not the same, even if they are both considered in the same way in terms of paragraph 201 of the NPPF. For example, it is possible that avoiding the total loss of the asset will, in this instance, result in public benefits flowing from the Proposed Development, including heritage benefits (for example securing the preservation of historic fabric, reducing risks or securing its optimum viable use; albeit reduced by the direct impact of removal). This may be the justification for imposing a Requirement setting out the process for relocation of the asset (and also whether this is possible), but ultimately depends on the asset's 'removal' resulting in substantial harm. The Council can see merit in the approach recommended by Historic England.

Whether this provides greater assurance and security within the Examination is a different question. As noted in other answers, the application cannot currently demonstrate clear and convincing justification for the removal of the asset. Should this matter be resolved, a suitably-worded Requirement would provide a pathway for retaining the building, which will ultimately result in either avoiding total loss (but resulting in harm), or *justifying* total loss if relocation is not feasible, and so some measure of clarity could be provided to the ExA when reaching their decision. However, in the Council's opinion, the Applicant has not demonstrated that dismantling and relocating the asset would not result in 'less than substantial harm'; although it is accepted that the ExA must assume 'substantial harm' in the event that no additional information (which as a minimum would involve a detailed structural survey) is forthcoming.

It is still advised (as it was during the pre-Examination process) that the Applicant seeks to undertake a structural survey as a matter of urgency.

Q2.12.4 Archaeological Remains

Archaeological Mitigation Strategy

Q2.12.4.1^a) Please confirm your views on the scope of the revised AMS submitted at D3 [REP3010] and its response to the joint Archaeological Design Brief?

It is acknowledged that the AMS is much improved however Bedford Borough Council still has some minor concerns/queries with certain parts of the revised AMS as follows:

Paragraph 1.6.1, subsection b): The version of the NPPF referred to is now out of date having been revised this year.

Paragraph 1.7.3: The East of England Regional Research Framework was updated in 2021 and is now online [East of England Research Framework \(researchframeworks.org\)](https://researchframeworks.org) whilst I recognise that the research themes in the AMS were drawn up prior to this being published it would be useful to refer to this so that it can be considered in the SSWSIs and subsequent reports when revision of research questions may take place if necessary.

Paragraph 2.1.2: This paragraph should reference that the exact level of excavation of each site will be agreed with the curators in the SSWSIs. Ultimately we are responsible for ensuring that archaeological remains in our respective areas impacted by development proposals are satisfactorily investigated and recorded.

Paragraph 2.3.6: This still reads as though these sites are being somewhat discarded with no reference to meeting research aims etc. almost as though 'we are going to look at these sites because we know you're going to insist on it but we don't really want to'. Whereas to my mind points a), b), and c) from the 2.3.4 above will still be equally applicable to these sites.

Paragraph 4.2.1, subsection b): See comment for 1.7.3 above, the research agenda for these papers is now online.

Paragraph 4.4.16, subsection c): 'Further excavations of Roman rural sites across much of the Central West, Upland Wales and the Marches, the North and the South-West regions are all highly desirable'...whilst this may be the case I am not sure it has much relevance to the A428 works in the East of England region?

Paragraph 5.1.7: Site 2 has been miscategorised here and should be moved to paragraph 5.1.6.

Paragraph 6.1.1: This reads as an instruction to the curators 'you **will** approve the SSWSIs within four weeks of receipt', whilst I will happily commit to reviewing the SSWSIs within four weeks I reserve the right to request amendments and will not approve a SSWSI until I am satisfied it is acceptable. If the applicants Archaeological Contractor or ACoW takes longer than four weeks to make these amendments then this is not the responsibility of the curators.

Paragraph 7.2.6: The term 'a form of arbitration will be proposed' is rather vague, it is unclear what form this arbitration is likely to take. Further detail on this would be welcome.

Section 8.9: For sites such as Site 9 where the evaluation uncovered human remains the MoJ Licence should be in place prior to the start of works.

Paragraph 9.1.2: Site 2 has been miscategorised here and should be moved to paragraph 9.1.1.

Paragraph 9.2.7: I suspect it will only become clear after the site strip as to whether there are any features which can safely only be recorded in plan, I would be reluctant to agree this until that stage and so it would be prudent to work on the assumption that some form of hand excavation is likely to be required for most features.

Paragraph 9.2.9, subsection b): Not sure why stakeholes have been dropped from this section when they are included for intrinsic sites, I assume they are just as likely within excavation and sampling sites and therefore likely to require investigation?

d) BBC, with regard to R9, are you satisfied with the Applicant's revised wording, as described in [REP3-007, Q1.12.4.2]?

Bedford Borough Council is satisfied that the applicant appears to have agreed in the most part to the revised wording suggested by Bedford Borough Council in response to Q1.12.4.2 with the exception of including a timetable in the AMS. For clarity the timetable suggested would not be linked to a specific date but would take the form of a sentence in the AMS reading for example 'A final publication report will be submitted no later than 5 years after the completion of the final stage of archaeological fieldwork on the A428 corridor unless otherwise agreed with the curators'. We do not see what detail to be revealed in the consented DCO prevents such a commitment being made. The reason for the commitment is to ensure the completion of post-excavation analysis and publication in a timely fashion, in the past open ended projects with no commitment to publish within an agreed timescale has led to a failure to publish results. We would welcome further discussion with the applicants and other curators in order to finalise agreed wording of R9 if required.

Q2.13.3 First Iteration EMP and Landscape and Ecology Management Plan

Q2.13.2.1

a) BBC, are you satisfied with the level of detail regarding the proposed mitigation that would have been secured through the First Iteration EMP, including the Landscape and Ecology Management Plan [APP-234] and the dDCO [APP-025]?

b) The ES states that one of the measures to mitigate the effects of construction activities includes sympathetic lighting to minimise disturbance to nearby receptors. The Applicant is not intending to provide any further information about the objectives for lighting measures, than is already provided in the First Iteration EMP [APP-234, Section 1.4]. BBC to comment.

Q2.16. Noise and Vibration

Q2.16.1.1 Borrow Pits

Does the Applicant's Borrow Pits Excavation and Restoration Report [REP3-011] adequately address concerns relating to noise associated with the use of Borrow Pits? If not, explain with reasoning.

No

9.24 Borrow Pits Excavation and Restoration Report dated October 2021[REP3-011]

Point 1.2.12 of the report states that environmental matters relevant from borrow pits include amenity issues that include air quality and noise.

Table 1.1 shows that there is a list of measures that would be implemented to mitigate impacts on amenity including monitoring, covering of stockpiled materials, use of suppression techniques, erection of barriers, sheeting of vehicles, use of sweepers and washing and liaison with at risk residents for dust issues.

With respect of noise the table lists ancillary plant to be positioned to cause minimum disturbance, acoustic barriers or enclosures to be provided if necessary. Working methods to be developed specific to the area. Plant and equipment to be shut down when not in use, regular maintenance of plant and for said plant to be used properly, vehicles to be fitted with exhaust silencers and maintained. Minimizing drop height for materials, use of less intrusive alarms, appropriate selection of plant, consideration of low vibration working methods, keeping haul routes clear and no stat up or shut down of large rollers within 50m of receptors and none of medium rollers within 15m of receptors.

2.2.1 states that the Key Constraints for site 11 are the changes in noise levels and visual amenity for residential receptors which are up to 150m from the site at its closest. I would query whether that is 150 to the residential premises boundary or to a façade. The report goes on to say that a number of properties may be impacted by dust. Mitigation strategies for dust and noise are set out in annex A and B within the report.

3.2.1 states that the Key Constraint for site 14 are the changes in noise levels and visual amenity for residential receptors on the A1 great north road and the individual property to the northeast which are 140m and 100m away respectively again I would query whether this is to the residential boundary or to a façade. Mitigation strategies for both dust and noise are again set out in annex A and B within the first iteration of the Environmental Management Plan.

The Environmental Management plan first iteration states in table 3-4 that the Principle Contractor will develop and implement an Air Quality Management plan. This plan is to adopt a range of industry good practice construction phase dust mitigation and monitoring measures that will include relating to dust management.

Table 3-10 states that the primary contractor will develop and implement a noise management plan. This plan will adopt a range of industry standard good practice construction phase (dust) mitigation and monitoring measures.

Previous information supplied by the applicant within their earlier borrow pit document stated that they would operate BPM to control dust and noise but made no assessment of the level of noise impact likely on nearby residences.

The new information supplied at this stage has given some more detail as to what BPM may entail but has still not supplied any further details as to the level of noise from the construction activity and therefore whether such BPM would be sufficient. Because of this lack of information I remain unable to assess whether or not such BPM mitigation would protect residents sufficiently or if they would be subject to harm that Environmental Health would be unable to act upon.

Annex A of the 1st iteration EMP states that it sets out the specific as well as generic measures that will be used to manage dust emissions. 1.4.1 states best practicable means will be used to minimise dust emissions.

Table A-1 states a series of dust management and measurement methods will be developed and implemented. A list of actions are included in the proposed plan including a number of actions for closer locations to sensitive premises but no data to show the level of impact likely on those residences.

Annex B of the 1st iteration EMP states that it sets out the generic measures to be used to manage noise and vibration. The measures detail that noise will be controlled by employing BPM and includes within 1.4.7 a list of control measures that will be implemented.

The concern remains that with no detail supplied as to the level of noise or dust that will be emitted, it is impossible to know the proposed information on mitigation is sufficient.

Q2.16.1.2 Noise baseline monitoring

Do LAs and IPs agree with the rationale put forward by the Applicant [REP3-019, Appendix B] to explain how the baseline noise monitoring undertaken was sufficient for the purposes of the ES? If not, explain with reasons.

No

The described purpose of the baseline noise survey was to identify the local noise climate and its constituent parts and to validate the traffic noise prediction modelling by comparing predicted traffic noise levels with the measured noise levels.

The validation exercise compared the baseline ambient noise levels measured in 2017 and the predicted traffic noise levels using 2015 base year traffic data. As can be seen the most recent measured noise data was from 4 years ago and was used to validate modelling from 6 years ago.

The report states that the prediction only considers road traffic whereas the measurements would consider all ambient noise sources. This is of course true

but rather than reducing the need for the assessment this increases the need for validation measurement to ensure accuracy.

1.1.24 of the report states that no material changes in baseline conditions have been identified between 2017 and 2021. Further validation work has been done but this involved further prediction work and no further monitoring. Bedford Borough Council and other local planning authorities have specifically asked that actual monitoring be done for the purpose of bearing out the accuracy of the calculated levels.

I can therefore confirm that the concerns of Environmental Health are outstanding following the information supplied by the applicant at deadline 3.

Q2.16.1.3 Noise and Vibration Errata

Do LAs or IPs have any comments regarding REP3-27 which clarifies that dates of Base Year traffic data, as referred to in various submissions by the Applicant, should be 2015 rather than 2016.

Only that the more up to date the data the more reliance can be placed on the models. This increases the importance that monitoring is undertaken in this year as relying on more historical data increases the potential of divergence between modelling and reality.

Q2.17.3 Assessment of combined effects

Q2.17.3.1 Applicant, for the receptors that would experience large adverse combined effects, and moderate adverse effects [APP-084] [APP-112] do you believe the First Iteration EMP should identify support and point of contact with the Community Liaison Manager or similar to provide immediate and short term mitigation to effects of construction period?

Should this be identified as additional mitigation? **LAs to comment.**

In general terms yes but the LA major concern for construction is that in areas such as the borrow pits mitigation may not be possible to adequately ensure an acceptable environment. Contact with a community liaison manager is only helpful where action taken by such a manager may ameliorate impact. We are yet to see any confirmation that this is the case and as such we are wary to rely on community engagement where this may just obfuscate a situation where, following granting of permission, no action can be taken to resolve a matter.