

A428 Black Cat to Caxton Gibbet improvements

TR010044

Volume 8

8.7 Draft Statement of Common Ground with the National Farmers
Union

Planning Act 2008

Rule 8(1)(e)

Infrastructure Planning (Examination Procedure) Rules 2010

November 2021

Infrastructure Planning

Planning Act 2008

The Infrastructure Planning
(Examination Procedure) Rules 2010

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

**8.7 Draft Statement of Common Ground with
National Farmers Union**

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STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) National Highways Company Limited and (2) National Farmers Union.

Signed.....

Anne-Marie Rogers

Senior Project Manager

on behalf of National Highways

Date: 4 November 2021

Signed.....

[NAME]

[POSITION]

on behalf of National Farmers Union

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 Scheme (the Scheme) made by National Highways Company Limited (National Highways) 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 The order, if granted, would authorise National Highways to construct a new 10 mile (16km) dual 2-lane carriageway from the Black Cat roundabout to Caxton Gibbet roundabout and in addition approximately 1.8 miles (3km) of tie-in works. The Scheme includes the following components:
- a. A new three-level grade separated junction at Black Cat roundabout, with the A1 at the lower level, the new dual carriageway on the upper level and a roundabout between the two at approximately existing ground level. In addition to slip roads, a new free flowing link between the A421 eastbound carriageway and the A1 northbound carriageway will also be provided.
 - b. A new grade separated all movements junction will be constructed to the east of the existing Cambridge Road roundabout to provide access to the new dual carriageway and maintain access to the existing A428.
 - c. At the Caxton Gibbet roundabout, a new grade separated all movements junction will be constructed, incorporating the existing roundabout on the south side of the new dual carriageway and a new roundabout on the north side. The new dual carriageway will then tie-in to the existing A428 dual carriageway to the east of the new Caxton Gibbet junction.
 - d. In the vicinity of the new Black Cat junction, direct access onto the A1 from some local side roads and private premises will be closed for safety reasons. A new local road will provide an alternative route. The existing Roxton Road bridge will be demolished and replaced with a new structure to the west to accommodate the realigned A421.
 - e. New crossings will be constructed to enable the new dual carriageway to cross the River Great Ouse, East Coast Main Line railway, Barford Road, the B1046/Potton Road, Toseland Road and the existing A428 at Eltisley.
 - f. The existing A428 between St Neots and Caxton Gibbet will be de-trunked and retained for local traffic and public transport with maintenance responsibility transferred to the local highway authorities.
 - g. An alternative access will be provided to side roads at Chawston, Wyboston and Eltisley.

h. There will be safer routes for walkers, cyclists, and horse riders.

1.1.3 This SoCG has been prepared 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 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) National Highways as the Applicant and (2) National Farmers Union (NFU).

1.2.2 National Highways (formerly known as 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 National Highways made provision for all legal rights and obligations of National Highways, including in respect of the Application, to be conferred upon or assumed by National Highways.

1.2.3 The National Farmers Union is a prescribed consultee for this application under Sections 42(1)(a) and 56(2)(a) of the PA 2008.

1.2.4 Collectively National Highways and the NFU are referred to as ‘the parties’.

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.
- 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 Raised chapter of this SoCG are not of material interest or relevance to NFU’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.

2 Record of Engagement

2.1.1 The parties have been engaged in consultation since the pre-application period for the Scheme. A summary of the meetings and correspondence that has taken place between National Highways and NFU in relation to the Application is outlined in **Table 2-1**.

Table 2-1 - Record of Engagement

Record of Engagement Under Development

Date	Form of correspondence	Key topics discussed
01/06/2017	Meeting	Highways England presentation to NFU. Overview of the Scheme and proposals.
18/08/2017 – 29/09/2017	Emails	Emails between NFU and Highways England. NFU made several enquiries about the scheme, including timetable (specifically when the preferred option will be announced), timing of engagement, and whether delays on the A14 works will affect the A428 scheme. Highways England provided responses to questions.
29/09/2017	Meeting	Meeting between Highways England and NFU.
07/05/2019	Meeting	Meeting with the NFU and Highways England to update on the Scheme and provide update on engagement with affected land interests to date.
30/05/2019	Letter	Letter from Highways England to NFU: Notification of statutory consultation, sent by email.
03/06/2019	Email	Email to NFU with invitation with a preview of the first public consultation event for the A428 scheme on 13/06/2019. Also advised timescales for consultation.
06/06/2019	Email	Email to NFU advising that the public consultation on the A428 scheme launched on 05/06/2019, providing information on the Scheme and consultation with key dates.
10/06/2019 and 10/06/2019	Email	Email to NFU confirming that formal consultation has now commenced and that a USB has been posted to them containing project information, plans etc, and inviting NFU to a land interest event on 13/06/2019. Response from NFU confirming they will attend.
13/06/2019	Meeting	Land Interest Consultation event – this event was for those who have an interest in the potentially affected land. NFU also attended.

Date	Form of correspondence	Key topics discussed
28/07/2019	Letter	Letter from the NFU to Highways England: Statutory consultation response from the NFU.
01/08/2019 and 09/08/2019	Email	Request from NFU to have their consultation response amended to remove reference to green corridors due to concern over ambiguity. Response from Highways England to confirm it was amended as requested.
10/09/2019	Email	Email to Environmental Technical Working Group (TWG), which includes NFU, asking for support in setting up an inaugural meeting; the objective of which was to establish future ways of working and what was expected of each group to achieve, as well as discussing themes arising from consultation responses.
11/09/2019	Email	Email from NFU regarding Environmental TWG requesting a call to discuss further.
17/09/2019	Phone call	Phone call with NFU to discuss attendance at ETWG – discussed purpose of the meeting and the importance of sending someone with a broad overview of the scheme. NFU provided contact details of whom he would like to attend and expressed interest in attending the SRU group. Their main interest was making sure agricultural users can use the A428.
19/09/2019	Email	Email from Highways England to members of Strategic Road Users Technical Working Group (TWG), which includes NFU, to confirm meeting details for 08/10/2019. Response from NFU confirming unable to attend but they were very keen to attend the working group and requested notes/handouts and to be kept on the list for future meetings.
19/09/2019	Email	Email from Highways England to members of Environmental TWG, which includes NFU, to confirm meeting details for 11/10/2019. Response from NFU confirming details of who was able to attend on their behalf.
08/10/2019	Email	Email to confirmed attendees of Environmental TWG on 11/10/2019 attaching Terms of Reference for review, which was to be discussed in the meeting.
11/10/2019	Meeting	Environmental TWG meeting held.

Date	Form of correspondence	Key topics discussed
14/11/2019	Email	Email from Highways England to Environmental TWG members following meeting on 11/10/2019 to share slides, minutes, and terms of reference documents, as well as to confirm that the next meeting will likely be end of January 2020.
15/11/2019	Email	Email from Highways England to Strategic Road Users TWG following meeting on 08/10/2019 to share slides and relevant updates as well as date for next meeting (10/12/2019).
22/11/2019 and 06/12/2019	Email	Email from Highways England to Strategic Road Users TWG Members to formally confirm next meeting details on 10/12/2019 and requesting confirmation of attendees' names. Response from NFU confirming name of representative planned to attend.
10/12/2019	Meeting	A428 Strategic Road Users TWG meeting.
11/12/2019 and 12/12/2019	Email	Email from NFU following Strategic Road Users TWG meeting the day before requesting further information on the additional borrow pit required next to Caxton Gibbet junction, and who the affected landowner is. Response from Highways England advising that the borrow pit depends on Ground Investigation Surveys and further results may be available at the next TWG meeting.
23/12/2019	Email	Email from Highways England to NFU in response to their request during the TWG meeting on 10/12/2019. Highways England provided information on diversion plans and road closures, as requested, and confirmed NFU have been added to the mailing list for future updates.
10/01/2020	Email	Email from Highways England to Strategic Road Users TWG sharing minutes and slides from TWG meeting of 10/12/2019 and advising that the next meeting will likely be w/c 02/03/2020.
20/02/2020	Email	Email from Highways England to NFU advising details of temporary road closures and temporary traffic lights.
03/03/2020	Email	Email from Highways England to Strategic Road Users TWG members to share timetable update for the next session and sharing material from previous sessions.
02/06/2020	Email	Email from Highways England to NFU requesting a meeting to share A428 project updates and discuss the next stages of the process.

Date	Form of correspondence	Key topics discussed
05/06/2020	Email	Email from Highways England to TWG members inviting them to attend an online meeting on 25/06/2020.
16/06/2020	Meeting	Meeting between Highways England and NFU to discuss supplementary consultation update.
20/06/2020	Meeting	Meeting between Highways England and the NFU to discuss the upcoming supplementary consultation.
24/06/2020	Letter	Letter from Highways England with notification of supplementary consultation.
22/06/2020	Email	Email to TWG members ahead of meeting on 25/06/2020 to share link to meeting and agenda.
24/06/2020	Phone call	Phone call from NFU to Highways England to discuss TWG meetings on 25/06/2020. Clarified the agenda for both of the TWG meetings on the 25/06/2020.
24/06/2020	Email	Email from Highways England to Environmental TWG members ahead of meeting on 25/06/2020 to share agenda.
25/06/2020	Meeting	A428 Black Cat to Caxton Gibbet Technical Working Group supplementary consultation briefing.
25/06/2020	Meeting	A428 Black Cat to Caxton Gibbet – Environmental Technical Working Group meeting.
10/07/2020	Phone call	Phone message from Highways England to NFU regarding the A428 public consultation and whether they needed any further information.
16/07/2020	Phone call	Phone call from Highways England to NFU to enquire as to whether any assistance was needed in responding to the supplementary consultation. NFU confirmed they had received the information.
24/07/2020	Email	Email from Highways England to Environmental TWG members attaching minutes and slides from the meeting on 25/06/2020.
26/08/2020	Supplementary consultation response from the NFU	<p>Key points raised:</p> <ul style="list-style-type: none"> • Borrow pits (details, alternatives considered, land acquisition). • Flood Storage Areas (land acquisition and impact on agricultural land and management). • Land take for the Scheme.

Date	Form of correspondence	Key topics discussed
		<ul style="list-style-type: none"> • Permanent v Temporary Land take. • Detail on Habitat Mitigation (including net gain). • Design issues, including access. • Drainage. • Soils. • Enhanced Rights of Way. • Use of the new road.
27/08/2020	Email	Email from Highways England to NFU confirming receipt of their supplementary consultation response.
11/09/2020	Letter	Letter from Highways England to NFU regarding Supplementary Consultation launch (Section 47).
09/07/2020	Email	Email from Highways England to NFU to confirm that the A428 consultation pack has been sent in the post by recorded delivery.
11/09/2020	Email	Email from Highways England to TWG members following last TWG meeting to advise meetings will be paused until later in 2020 while comments from the supplementary consultation are taken into account.
17/03/2021	Email	Email from Highways England to NFU asking suitable dates for a meeting between A428 team and NFU to provide update on progress of scheme.
30/03/2021	Meeting	Meeting between Highways England and NFU to discuss the project application. Highways England provided an update on discussions with landowners, borrow pits, biodiversity and rep process.
10/06/2021	Letter	Letter from the NFU to Highways England detailing the Relevant Representations.
13/07/2021	Email	Email from Highways England to NFU requesting the NFU wording is provided on the 5 topics referred within the relevant representation.
22/07/2021	Email	Email from Highways England to NFU following up on previous email requesting the draft text referred to in the submitted relevant rep for Highways England to consider.
29/07/2021	Email	Email from NFU to Highways England providing a holding response promising the preferred wording to be supplied in few days.

Date	Form of correspondence	Key topics discussed
04/08/2021	Email	Emails from NFU to Highways England providing the preferred wording for a range of topic items.
04/08/2021	Email	Email from Highways England to NFU acknowledging receipt of preferred wording.
15/09/2021	Meeting	Meeting between National Highways and NFU to discuss the matters raised in the relevant representation and the drafting of the SOCG.
29/10/2021	Meeting	Meeting between National Highways and NFU to discuss the matters raised in the relevant representation and the drafting of the SOCG.

2.1.2 It is agreed that this is an accurate record of the key engagement and consultation undertaken between (1) National Highways (NH) and (2) NFU 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 and as raised through the NFU Relevant Representation REP-074.

3 Issues Raised

Table 3-1 – Issues raised and positions

Issue	Document Reference	National Highways Position as at Deadline 4, 4 November 2021	National Farmers Union Position	Status	Date
<p>Consultation and Engagement</p>	<p>First Iteration Environmental Management Plan (EMP) [APP-234]</p>	<p>National Highways can confirm that negotiations with directly affected landowners will continue. National Highways has prepared a draft Statement of Common Ground that has been shared with the NFU. (Deadline 1)</p> <p>National Highways has prepared Position Statements with all landholders who have agreed to document engagement and agreement in this way. This means that position statements have been issued to 30 landowners (including all of those who have submitted a representation to the project). An offer of a meeting was issued with the position statements and those who have not taken up the offer have been offered further opportunity for a meeting. To date 5 parties have taken National Highways up on the offer of a meeting. (Deadline 4)</p>	<p>One to one meetings have been held between landowners and Ardent the agents acting for National Highways (NH) and the NFU would like to see negotiations continuing with members who are directly affected. The NFU understands from agents that NH is not keeping landowners updated and it is taking NH too long to respond to queries raised by agents. Further the NFU would like to enter into a Statement of Common Ground to understand and agree outstanding issues, especially the wording that is being sought on practical issues and the NFU would like to see being included in the First Iteration Environmental Management Plan (FIEMP).</p> <p>(Relevant Representation [RR-074] 10.06.21)</p>	<p>Under discussion</p>	

Issue	Document Reference	National Highways Position as at Deadline 4, 4 November 2021	National Farmers Union Position	Status	Date
Habitat Mitigation	Appendix 8.19 of the ES (Biodiversity Net Gain) [APP-206]	<p>National Highways wishes to clarify that no land is being sought through compulsory acquisition for the sole purpose of contributing towards delivery of the Scheme's biodiversity net gain (BNG) score of 20.5%.</p> <p>The BNG score has been derived from the measures incorporated into the Scheme that have been identified as being essential to mitigate its likely environmental effects.</p>	<p>Further to the response submitted to the consultation the NFU would still like to receive clarification as to why so much land is being taken for habitat mitigation and it is understood that (NH) have now identified a 20.5% net gain.</p> <p>We understand that this might be being achieved through the enhancement of previous identified sites.</p> <p>Further clarification is required as the NFU would not want to see more land being compulsorily purchased to achieve a net gain on a linear infrastructure scheme. The NFU would like confirmation on what management agreements are to be put in place to maintain the habitat mitigation sites.</p> <p>(Relevant Representation [RR-074] 10.06.21)</p>	Under discussion	
Access Routes and Accommodation Works	Outline Construction Traffic Management Plan [APP-244]	National Highways is committed to continuing engagement with landowners on matters relating to both maintaining access to land, including temporary access routes and other accommodation works during and post construction. These	The NFU raised concerns over (NH) addressing new access routes that will be required once the new road is operational to land and also temporary access routes during construction which will be severed by the works. Further concerns where in	Agreed on access. Accommodation works still under discussion	

Issue	Document Reference	National Highways Position as at Deadline 4, 4 November 2021	National Farmers Union Position	Status	Date
		have been documented within position statements where available.	<p>regard to agreeing accommodation works at an early stage. The response provided by NH in the response consultation document is brief with no detail. The NFU understand from agents acting for members that meetings have been taking place, but further confirmation is required.</p> <p>(Relevant Representation [RR-074] 10.06.21)</p>		
Construction Compound Sites	Draft Development Consent Order (dDCO) [APP-025]	The level of detail in Schedule 7 matches the level of detail included in other consented DCOs including the A303 (Amesbury to Berwick Down) Development Consent Order 2020; The A63 (Castle Street Improvement, Hull) Development Consent Order 2020 and the A1 Birtley to Coal House Development Consent Order 2021. It is important that the DCO allows an element of flexibility at this stage in the design process, so National Highways is unable to provide any more detail about the construction compounds in Schedule 7 of the dDCO.	NH on plans submitted under the DCO has identified some large areas of land to be taken for construction compound sites. The NFU would like to see the detail of use for each compound site being detailed in the DCO particularly within Schedule 7, Article 40. At the present time it is stated that the areas will be used as a construction area 'required to provide temporary storage, laydown areas, access and working space to facilitate the construction of...' We require further detail on exactly what works may take place and what type of storage. This should be explicitly detailed for each compound.	Not Agreed	

Issue	Document Reference	National Highways Position as at Deadline 4, 4 November 2021	National Farmers Union Position	Status	Date
		<p>Chapter 2 of the Paragraphs 2.6.256 - 2.6.292 provide information on construction compounds.</p> <p>National Highways will continue to engage with landholders to ensure they remain informed as further detail is developed during detailed design and construction planning.</p>	<p>(Relevant Representation [RR-074] 10.06.21)</p>		
<p>Powers to Survey Land</p>	<p>Draft Development Consent Order (dDCO) [APP-025]</p>	<p>National Highways is committed to continuing engagement with the land owners and where surveys are required outside of the Order Limits, general details of the survey type and purpose, the equipment to be used, expected duration and name of the company completing these works will be provided to the landowner prior to the start of these works.</p> <p>Further information regarding the types of surveys to be undertaken was provided by National Highways to the Examination at Deadline 3 and can be found at Appendix B within National Highways response to actions arising from Issue Specific Hearing 3 [REP3-020].</p>	<p>It is noted that in the DCO under Paragraph 23: Authority to survey and investigate the land under 23.1 (b) ii it is stated that HE can discharge water from sampling operations. The NFU would like further detail on the types of sampling that is to be undertaken and the quantities water that could be discharged. The NFU is pleased to see that 23.3. does state that the nature of the survey must be stated in the notice. The NFU would further like to see that the ALO as part of its role is to: "Provide preconstruction survey information to landowners including company name, survey type and equipment to be used, an estimate of how long the surveys are expected to take and where surveys are to take place on land outside of</p>	<p>Under discussion subject to the agreement of the ALO role as per Annex A</p>	

Issue	Document Reference	National Highways Position as at Deadline 4, 4 November 2021	National Farmers Union Position	Status	Date
			<p>the Order limits, an explanation of why such land is required”.</p> <p>(Relevant Representation [RR-074] 10.06.21)</p>		
<p>Temporary use of land for carrying out the authorised development</p>	<p>Draft Development Consent Order (dDCO) [APP-025]</p>	<p>The 14 day period was included in the Model Provisions and numerous other granted development consent orders including the recently granted The A303 (Amesbury to Berwick Down) Development Consent Order 2020; The A63 (Castle Street Improvement, Hull) Development Consent Order 2020; The A1 Birtley to Coal House Development Consent Order 2021; The A19 Downhill Lane Junction Development Consent Order 2020 and The A303 Sparkford to Ilchester Dualling Development Consent Order 2021. It is therefore considered adequate.</p> <p>Although the notice period of 14 days is less than that envisaged by the Neighbourhood Planning Act 2017 (NPA) (which is not yet in force in any event), the owners and occupiers of the land will have been consulted and notified of National Highways’ need to temporarily use the land to carry out the authorized development as a result of the DCO application</p>	<p>It is noted that in the DCO at Paragraph 40 ‘Temporary use of land for carrying out the authorised development’ it is stated that a 14-day notice has to be served before taking entry. At a minimum the NFU will want to see a 28-day notice being served before entry is taken on to land on a temporary basis. Experience from other schemes is showing that a 14-day notice is not adequate.</p> <p>(Relevant Representation [RR-074] 10.06.21)</p>	<p>Not Agreed</p>	

Issue	Document Reference	National Highways Position as at Deadline 4, 4 November 2021	National Farmers Union Position	Status	Date
		<p>process. An outline programme will be provided to landholders at the start of each phase to provide a forward look of upcoming access requirements. The 14-day notice period will confirm precise dates within the broader outline programme</p> <p>National Highways needs to ensure that the Scheme can be carried out efficiently and expeditiously following the making of the Order. Therefore, a longer notice period is considered to be unnecessary given that the relevant landowners will already have had prior notice via consultation.</p> <p>The relevant provisions (sections 18 to 23) of the NPA are not yet in force and it is unclear whether or when they will be brought into force, and whether further regulations will be introduced to provide more detail on the operation of the temporary possession regime. As the NPA is not yet in force, National Highways is of the view that it is not currently possible to understand or reflect accurately the temporary possession provisions as intended by Parliament in respect of DCOs. It is not yet known whether the provisions will apply to DCOs or whether there will</p>			

Issue	Document Reference	National Highways Position as at Deadline 4, 4 November 2021	National Farmers Union Position	Status	Date
		<p>be any transitional arrangements. National Highways has therefore applied the 'tried and tested' temporary possession regime that has been included in numerous DCOs to date, and is well understood by practitioners, agents and contractors.</p>			
<p>Balance Ponds</p>	<p>Chapter 13, Road Drainage and the Water Environment of the ES [APP-082]</p>	<p>The size of ponds is defined by the volume of runoff from additional impermeable areas that needs to be stored during 1 in 100 year storm events with 40% climate change allowance, when discharge rates are restricted to Qbar, to mimic the existing flow and volume conditions. This pond design principal has been agreed with the LLFAs (Lead Local Flood Authority's) and the EA (Environment Agency). Ponds have been located near to outfalls while remaining outside of floodplains and as close as possible to the carriageway.</p> <p>Landowners have been consulted through the informal and formal process on the location and size of the ponds; and where it has been possible the design has been refined in response to landowner feedback.</p>	<p>The NFU would like information to be provided to explain why the size and location of balance ponds are required and where these are to be located. Further relocation next to field boundaries would help minimize the impact on the farmland in question. The NFU would like to see further negotiations with landowners on balance ponds and refinement as design is developed.</p> <p>(Relevant Representation [RR-074] 10.06.21)</p>	<p>Agreed</p>	

Issue	Document Reference	National Highways Position as at Deadline 4, 4 November 2021	National Farmers Union Position	Status	Date
Waste and Spoil	First Iteration EMP [APP-234]	<p>It is not clear what is meant by the terms waste and spoil – details on how waste will be managed on the project are show in Chapter 10, Material Assets and Waste of the ES [APP-079].</p> <p>Topsoil and subsoil that is cut from plan area of the Scheme including the borrow pits will be stored and subsequently reused on new verges, embankments, cut slopes and in the reinstatement of the borrow pits. Material cut from the Scheme which is suitable for use as an engineering fill will be used in the embankment construction across the project.</p> <p>Material that is cut but is not found to be suitable for use as an engineering fill will be incorporated in the permanent mitigation bunds and landscaping areas or used in the reinstatement of the borrow pit areas from where the shortfall in engineering fill will be sourced. If material is required to be moved around the scheme an assessment will be conducted prior to the deposit to ensure that it is compatible with the deposit location.</p>	<p>The NFU would like information to be provided to explain how waste and spoil is to be treated. The response to the NFU after the first consultation does not clarify where waste and spoil is to be used within the construction. It just states that soils will be delivered back to the respective locations from the storage zones. It will not be possible to return soil back to respective soil locations without changing the surface level and agricultural classification.</p> <p>(Relevant Representation [RR-074] 10.06.21)</p>	Under discussion	

Issue	Document Reference	National Highways Position as at Deadline 4, 4 November 2021	National Farmers Union Position	Status	Date
Private Water Supply	Annex F – First Iteration EMP [APP-234]	<p>Records of private water supplies obtained as part of the assessment reported in Chapter 13, Road Drainage and the Water Environment assessment [APP-082] confirmed that no such supplies are present within 1 kilometer of the Scheme. Accordingly, no temporary or permanent effects are predicted on private water supplies.</p> <p>The wording proposed by the NFU is included in Annex A. National Highways will review the wording and respond to the NFU in due course (Deadline 1).</p> <p>National Highways has reviewed the wording proposed by the NFU regarding private water supply and is broadly in agreement subject to proposed changes as set out in Annex A (Deadline 4).</p>	<p>There is no information in the FIEMP as to how private water supplies will be treated if affected on a temporary or permanent basis. The main works contractors should have to provide an alternative supply if a private supply is contaminated, cut off or the supply is affected in anyway during the construction of the road. The NFU has specific wording that it would like to see agreed and included in the FIEMP to guarantee that farms will have a temporary and/or a permanent water supply.</p> <p>(Relevant Representation [RR-074] 10.06.21)</p>	Agreed	
Field Drainage	First Iteration EMP [APP-234]	Land drainage and over land drainage are considered as part of the Scheme and will be included as part of the design. During detailed design National Highways will consider the individual needs of each land parcel.	Land drainage is always one of the main issues which landowners and agricultural tenants are concerned about when land is taken for construction purposes of a major road. Further raising issues in a response to the consultations in regard to field drainage NH	Under discussion	

Issue	Document Reference	National Highways Position as at Deadline 4, 4 November 2021	National Farmers Union Position	Status	Date
		<p>Any impacts on the existing land drainage systems will be dealt with as part of the detailed design and implemented by the Principal Contractor.</p> <p>Generally, any land drainage severed by the Scheme will be captured by proposed drainage systems such as overland ditches along the Scheme.</p> <p>The wording proposed by the NFU is included in Annex A. National Highways will review the wording and respond to the NFU in due course (Deadline 1).</p> <p>National Highways has reviewed the wording proposed by the NFU regarding drainage and is broadly in agreement subject to proposed changes as set out in Annex A (Deadline 4).</p>	<p>responded that the Drainage Strategy report covers operational drainage and that the FIEMP describes how construction drainage will be dealt with. The NFU is disappointed that NH has not addressed agricultural field drainage that will be severely affected by the construction works. This is particularly important where land will be returned to agricultural use.</p> <p>The NFU has specific wording that it would like to see agreed and included in the FIEMP to guarantee that land drainage will be fully reinstated.</p> <p>(Relevant Representation [RR-074] 10.06.21)</p>		
Soils	Annex E of the First Iteration EMP [APP-234]	Section 9.4 of Chapter 9, Geology and Soils [APP-078] explains that intrusive soils sampling surveys to inform the geology and soils assessment were planned for 2020. However due to the Covid-19 pandemic and associated local lockdown restrictions, these were unable to be undertaken. National	The NFU is pleased to see that there is a detailed section on Soil Handling and Management at Appendix E of the FIEMP which covers soil preparation, sub and top soil stripping, controls during construction, soil storage and restoration.	Under discussion	

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		<p>Highways has committed to undertake the surveys in 2021 (subject to Covid restrictions) and following the completion of the fieldwork and the analysis of findings, a report will be prepared by National Highways and submitted to the Examination as further environmental information.</p> <p>National Highways will also provide a copy of the report to the NFU at the time it is submitted to the Examination.</p> <p>The scope of soil survey will be based upon the following:</p> <ul style="list-style-type: none"> • Information required to establish current soil grades and profiles within the Order limits will be obtained using 675 auger points, 13 soil pits and 13 lab samples. • The grades of soil will be identified within each of the 31 agricultural holdings and graded using the Agricultural Land Classification (ALC) system. <p>The outcomes of the agricultural soil assessment will be used to inform the agricultural impact assessment in relation to determining the extent,</p>	<p>The NFU would like to see further detail included to cover a pre-construction soil survey which will form the basis of a soil statement to be included within a record of condition.</p> <p>Further the NFU would like to see wording agreed to cover soil aftercare which will be linked back to the soil statement and condition of the soil before the construction works started.</p> <p>(Relevant Representation [RR-074] 10.06.21)</p>		

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		<p>distribution and value of ALC soils and assessing the impacts and effects of their loss and/or disturbance to function (for example through degradation, compaction and erosion). Specific regard will be given to the impacts and effects of soils graded as being best and most versatile.</p> <p>National Highways can confirm that wording drafted relating to soil aftercare will be shared with the NFU in a timely manner and prior to the completion of the Second Iteration EMP.</p>			
Dust	Annex A of the First Iteration EMP [APP-234]	The proposed measures to mitigate dust effects during the construction phase are set out in the Dust Management Plan within the First Iteration EMP [APP-234]. The measures proposed for the control of emissions of dust from the construction works will be protective of all types of sensitive receptors (see Annex A – Air Quality Management Plan, First iteration EMP [APP-234]).	It is noted that within the FIEMP that dust will be controlled during construction, but clarification is needed on how dust will be controlled during construction to protect arable crops. The project will impact a vast area of arable crops that are grown in this area, quality of the crop is paramount. NFU would like to see details specific to dust control for agricultural crops. (Relevant Representation [RR-074] 10.06.21)	Agreed	

Issue	Document Reference	National Highways Position as at Deadline 4, 4 November 2021	National Farmers Union Position	Status	Date
Irrigation Systems	First iteration Environmental Management Plan [APP-234]	<p>National Highways is content to review the NFU's suggested wording on minimising the effects of construction on irrigation systems and discuss its possible inclusion in the First iteration EMP [APP-234].</p> <p>The wording proposed by the NFU is included in Annex A. National Highways will review the wording and respond to the NFU in due course (Deadline 1).</p> <p>National Highways has reviewed the wording proposed by the NFU regarding irrigation systems and is broadly in agreement subject to proposed changes as set out in Annex A (Deadline 4).</p>	<p>The NFU has not been able to find any information in the FIEMP as to how the effect of construction can be minimised on irrigation systems. The NFU has specific wording that it would like to see agreed and included in the FIEMP to guarantee that irrigation systems are maintained.</p> <p>(Relevant Representation [RR-074] 10.06.21)</p>	Agreed	
Agricultural Liaison officer	First Iteration EMP [APP-234]	<p>National Highways will review and discuss with the NFU the proposed wording in relation to the Infrastructure Practical Matters as set out in Annex A for the next iteration of this SoCG for submission at Deadline 3. (Deadline 1).</p> <p>The Principal Contractor will deploy an experienced Community/ Stakeholder Engagement team to manage and support communications and relationships</p>	<p>Liaison with landowners, tenants and agents is essential but there is only mention of a Community Relations Manager within the FIEMP. This is not adequate and the NFU would like to see that the main works contractors will have to employ an agricultural liaison officer to carry out liaison with landowners. The NFU has specific wording that it would like to see agreed and included in the</p>	Agreed on principle, role to be defined.	

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		<p>with all stakeholders affected by the A428 scheme. As part of the Community/Stakeholder Engagement Team, resource will be identified to operate as an Agricultural Liaison Officer (ALO). This individual will be the dedicated point of contact for the farming community throughout the duration of the Scheme construction. The Applicant will continue to engage with the NFU to seek agreement of the responsibilities of the ALO, whilst maintaining cognisance of the expertise that exists within the Applicant's wider team. The ALO will continue to support the wider Community / Stakeholder Engagement team to maintain an efficient and effective service for the community as a whole. (Deadline 4)</p> <p>The Applicant notes the expected responsibilities for the ALO role suggested within the NFU written representation (Annex A) and will provide a summary of roles within the Community/Stakeholder Engagement team assigned to each area of responsibility prior to DL6.</p>	<p>FIEMP which covers the roles which need to be undertaken by the ALO. (Relevant Representation [RR-074] 10.06.21)</p>		

Issue	Document Reference	National Highways Position as at Deadline 4, 4 November 2021	National Farmers Union Position	Status	Date
<p>Agricultural Use of the A428</p>		<p>The new dual carriageway will be an all purpose trunk road and there are no restrictions as to the use of that road by agricultural vehicles being sought within the draft DCO [APP-025].</p>	<p>The NFU requested confirmation that the proposed A428 will remain for the use of all traffic including agricultural vehicles. NH has confirmed that the new dual carriageway will be designated an all-purpose trunk road. The NFU would like to see this stated in the DCO.</p> <p>(Relevant Representation [RR-074] 10.06.21)</p>	<p>Agreed</p>	

Annex A – NFU Preferred wording

NFU Wording – Infrastructure Practical Matters1.0 Agricultural Liaison Officer

- 1.1 The ALO will be appointed by the Developer prior to the commencement of the Works and will be the prime contact for ongoing engagement about practical matters with the Landowner, the Occupier (if applicable) and their respective agents before and during the construction process. The Developer shall be permitted to appoint more than one ALO if required.
- 1.2 The ALO (or their company) will be contactable between 7am and 7pm during the construction phase of the Works by and with the Landowner, the Occupier (if applicable) and their respective agents and will provide 24-hour team or company contact details for use in the event of emergency.
- 1.3 The ALO will have relevant experience of working with landowners and agricultural businesses and will have knowledge of the compulsory acquisition process (if required) and working on a linear infrastructure project.
- 1.4 The ALO will remain appointed for up to one year after completion of the Works in order to manage remediation issues.
- 1.5 The role of the ALO will involve having responsibility for liaising with the Landowner, the Occupier (if applicable) and their respective agents in respect of the following:
 - 1.5.1 The ALO will be responsible for coordinating the provision of the Schedule of Condition and Pre-Construction Soil Survey.
 - 1.5.2 The ALO will also undertake pre-construction liaison with affected parties to minimise disruption, where possible, to existing farming regimes and timings of activities (which will include endeavouring to keep the Landowner informed at least 3 months in advance (where practicable) of the Developer's intention to take entry in order to commence the Works);
 - 1.5.3 Provide preconstruction survey information to landowners including company name, survey type and equipment to be used, an estimate of how long the surveys are expected to take and where surveys are to take place on land outside of the Order limits, an explanation of why such land is required;
 - 1.5.4 coordinating drainage surveys and sharing pre and post construction drainage schemes with the Landowner or Occupier (if applicable) in advance for their consideration;
 - 1.5.5 coordinating water supply statements;
 - 1.5.6 ensuring the Landowner and the Occupier (if applicable) are consulted in respect of requirements to field entrances and accesses across the Works to landlocked and severed land parcels;
 - 1.5.7 Liaise with owner/occupiers regarding:

- (a) measures to be implemented to maintain livestock water supplies which may be affected due to construction works;
 - (b) fencing requirements both during and post-construction;
- 1.5.8 Liaise with landowners prior to any proposed discharges to existing drains if any such discharge is necessary;
- 1.5.9 discussing the location, grouping, and marking of Inspection Chambers with the Landowner and the Occupier (if applicable);
- 1.5.10 advising on risks relating to the translocation of soil diseases, where necessary, and ensuring appropriate protective provisions are implemented;
- 1.5.11 Liaise with affected landowners/occupiers about activities which may affect their land/business prior to public release of information about those activities;
- 1.5.12 Liaise with the affected landowners/occupiers regarding gate design where agricultural access is required;
- 1.5.13 Liaise with private water abstractors should any pollution incidents occur which may impact on private water supplies;
- 1.5.14 arranging quarterly meetings with the Landowner, the Occupier (if applicable) or their respective agent representatives;
- 1.5.15 Undertake pre-construction and day-to-day discussions with affected owner/occupiers to minimise disruption, where possible, to existing farming regimes and timings of activities;
- 1.5.16 Undertake site inspections during construction to monitor working practices and compliance of the contractor/s with their obligations to owner/occupiers under this OEMP;
- 1.5.17 discussing and agreeing reinstatement measures following completion of the Works;

2.0 Record of Condition

2.1 A Record of Condition will be undertaken pre -construction and will include the following:
(This would be subject to agreement and cooperation of the landowner / occupier)

- Existing crop regimes
- The position and condition of existing field boundaries
- The condition of existing access arrangements
- The location and type of existing private water supplies
- The type of agricultural use taking place;
- The condition of crops (if at a stage this can be assessed)
- The quality of grazing land
- The existing weed burden

- Soil Resource Survey report
- Weather conditions
- Date of survey
- Grid reference

2.2 Photographs, drone and video footage including section drawings/plans should be included in the record of condition, alongside the SRS report and should be provided to the landowner and occupier, for agreement, prior to entry to the landholding.

3.0 Biosecurity

3.1 The main works contractor shall comply with the requirements of DEFRA and appropriate guidance to avoid, as far as possible, the spread of soil-borne crop and animal diseases. The main works contractor will implement appropriate measures to control run-off to reduce any risks associated with disease transmission.

4.0 Irrigation

4.1 Details of any irrigation system on each land holding, where relevant, will be provided by landowners during the detailed design stage and irrigation plans will be developed. The Agricultural Liaison Officer (ALO) will be responsible for consulting with each individual landowner to obtain the relevant information and to be a point of contact to report concerns regarding irrigation systems during construction. The plans will include the following information:

- Location of boreholes and water supplies used by each farmer;
- Irrigation or impoundment licence granted by the EA; and
- System of irrigation applied and the location of irrigation network for each field.

5.0 Agricultural Land Drainage

5.1 Particular care will be taken to ensure that the existing land drainage system is not compromised as a result of construction. Land drainage systems will be maintained during construction and reinstated on completion.

5.2 The Agricultural Liaison Officer (ALO) will coordinate drainage surveys to establish the existing drainage position including any related farm drainage that may be affected by the scheme (this would be subject to the landowner / occupier agreeing to suitable access as required to complete these surveys).

- 5.3 The services of a suitably qualified drainage consultant, will be employed by the contractor to act as a drainage expert during the detailed design process and liaise with landowners or occupiers (through the ALO) to consult on the pre and post drainage schemes required. This will include the design of any land drainage works required during construction, and on the design and timing of any land drainage works required for the subsequent restoration of the land. This process will take due regard of any local and site-specific knowledge.
- 5.4 Existing agricultural land drains, where encountered during the construction of each phase, will be appropriately marked. The location of drains cut or disturbed by the construction works will be photographed, given a unique number and logged using GPRS coordinates. The actual condition and characteristics (e.g. depth of installation, pipe type and diameter) of the existing drainage will also be recorded upon excavation.
- 5.5 During the construction works, drainage will be installed to intercept existing field drains and ditches to maintain the integrity of the existing field-drainage system during construction. Such measures will also assist in reducing the potential for wet areas to form during the works, thereby reducing the impact on soil structure and fertility. Drainage systems however will not be installed into areas where they are not currently present, e.g. environmental wetlands.
- 5.6 Any field drainage intercepted during construction will either be reinstated following reinstatement of the land or diverted to a secondary channel. Landowners and occupiers will be informed of the design of drainage works required during construction, including: pipe layout, falls, dimensions and outfalls (if required). The drainage would be reinstated in a condition that is at least as effective as the previous condition and will follow best practice for field drainage installations taking into account site specific conditions.
- 5.7 Where it is reasonable for the reinstatement of drainage to involve works outside of the order limits it will be done subject to the agreement of the landowner.
- 5.8 Landowners and occupiers will be provided with the opportunity to inspect land drainage works as they progress, subject to health and safety considerations. Furthermore, records of existing and remedial drainage will be maintained by the contractor with copies provided to the Landowner (and the Occupier, if applicable) following the completion of construction works in each phase.
- 5.9 A dispute resolution process will be established including the appointment of a jointly agreed Independent Expert, who shall have at least 5 years experience of dealing with land drainage issues in the region, for drainage design and implementation, if required. Where agreement cannot be reached on the appointment of the expert the matter will be referred to the President of the Institution of Civil Engineers.

6.0 Soils

6.1 Preconstruction Soil Statements

- 6.1.1 The preliminary or main works contractor shall produce and provide to landowners and occupiers if necessary, Preconstruction Soils Statements for areas of agricultural land within individual land holdings that will be temporarily occupied during the preliminary and main construction of the Scheme. These shall provide a baseline schedule of soil condition against which the restoration of the soil will be assessed. The statements shall identify soils resource topsoil and subsoil unit plans

and shall include, as a minimum, all pre-construction soil survey information obtained to inform the ES, the development of the Soils Management Strategy (refer to item XXX) and the information gathered from the record of condition surveys (refer to item XXX)

6.1.2 The Pre-Construction Soil Survey will include the identification of the physical characteristics of profiles at a standard density of 100 metre intervals (with additional profiles examined where the 100 metre grid sampling does not enable a suitable density of sampling in an agricultural enclosure that will otherwise be missed). Soil pits will be examined at appropriate locations to provide additional detail on soil structure. The Pre-Construction Soil Survey will also provide information on the following physical soil characteristics:-

- a) soil horizon depths for topsoil and subsoil horizons;
- b) soil textures of all horizons;
- c) soil colour;
- d) stone contents, estimated from augering, confirmed by soil pit excavation/and or sample analysis;
- e) presence and characteristics of mottling, a soil wetness indicator;
- f) presence of manganese concretions, a soil wetness indicator;
- g) identification of gleyed horizons;
- h) identification of slowly permeable layers; and
- i) identification of impenetrable rock layers.

6.1.3 A copy of the Pre-Construction Soil Survey shall be provided to the Landowner and any Occupier prior to commencement of the Works.

6.2 Monitoring of Soil During the Works (Temporary Land)

6.2.1 Soil will be stored and managed in accordance with DEFRA Construction Code of Practice for Sustainable Use of Soils on Construction Sites (Ref PB1328) or the latest relevant available guidance.

6.2.2 The Developer shall as far as reasonably practicable reinstate and put back subsoil and top soil into the same condition as it was in prior to its opening or breaking up for the purpose of carrying out the Works but shall not be obliged to reinstate the soil into any better condition than as evidenced by the Schedule of Condition and the Pre-Construction Soil Survey.

6.2.3 The Developer shall procure that any topsoil stripped from agricultural land shall be preserved and stored in a bund.

6.2.4 Any damaged topsoil will be replaced with topsoil of equivalent grade (The Developer shall use reasonable endeavours to procure is free of contamination or disease).

6.2.5 The subsoil will be stored in a separate bund to the topsoil.

- 6.2.6 If required in accordance with Environment Agency Guidelines, the Developer shall install around each relevant bund entrenched vertical entrapment fences (also known as silt fences) provided that even if it is not required in accordance with Environment Agency Guidelines, the Developer may still choose (but shall not be obliged) to install the same.
- 6.2.7 Each topsoil bund that has been in situ for more than 6 (six) months shall be seeded with a clover and grass mix to minimise erosion.
- 6.2.8 The Soil Expert shall carry out an assessment to consider where water may pond on subsoil in the stripped working area and, where appropriate, shall determine (such determination to be binding on both parties) means to drain this water away through the bund;
- 6.2.9 The Developer shall procure the control of weed growth on the topsoil and subsoil bunds (and otherwise on the Construction Strip) before the weeds flower, where necessary hand roguing wild oats or black grass and taking precautions not to allow weed spray to drift onto adjoining crops adjacent to the Construction Strip.
- 6.2.10 The subsoil from agricultural land shall be loosened (by appropriate sub-soiling) before any top soil is returned.
- 6.3 Restoration and Soil Aftercare
- 6.3.1 Restoration of agricultural land and aftercare: Where land is to be restored to agriculture the main works contractor shall liaise with the landowner / occupier, through the ALO, and set out the detail for restoration on each specific area of farmland. The land restoration will proceed with full consultation between the landowner/occupier and the main works contractor including inspection of works where applicable and in accordance with requisite site health and safety procedures.
- 6.3.2 Where land is to be used temporarily and returned to the landowner/occupier, the ALO will carry out the following:
- a) liaise with the landowner on the working methods and the detail for restoration of each specific land parcel and the restoration of the soil shall be assessed against the baseline schedule of soil condition (pre-construction soil statement);
 - b) the schedule of aftercare maintenance is to include soil testing, appropriate to the target specification for a period of up to 12 months following completion of the relevant construction work.

- c) undertake site inspections during construction to monitor working practices and compliance of the contractors with their obligations to landowners and occupiers under the OEMP;
- d) liaise with the landowner/occupier on the reinstatement measures following completion of the works;
- e) Undertake inspections of restored agricultural land with the landowner/occupier and the Developer's soil expert to assess the progress of the restoration;
- f) coordinate the appropriate remedial actions or compensation agreed within the parameters of the compensation code and/or any previous agreements made at the time of acceptance of the initial restoration works and handover to the landowner/occupier.

6.3.3 The land will be handed back to the landowner/occupier at the earliest opportunity once the restored land is in a suitable condition to be returned to its former use.

6.3.4. A final review to determine the final handover condition of the agricultural soil will be produced.

7.0 Agricultural Private Water Supplies

7.1 Where an existing mains or private water supply to a farm is adversely and directly affected by the construction of the Scheme, the main works contractor shall, if requested by the farmer or landowner to do so, provide or procure or meet the reasonable cost of the provision of an alternative supply of water (the form and type of which shall be at the contractor's option). Where the supply is affected temporarily by the construction of the Scheme, then the alternative supply need only be supplied for the period during which it is affected.

7.2 Where a request is made by the farmer or landowner for a permanent supply due to permanent severance of the existing supply caused by the construction of the Scheme, the main works contractor shall, where provision of an alternative means of supply can be demonstrated by the land owner/farmer to be reasonably required for his business, provide or procure or meet the reasonable cost of a permanent means of alternative supply of water (the form and type (either borehole or mains supply) shall be at the contractor's option).

7.3 Water Supply Statements

The main works contractor shall produce Water Supply Statements for landowners / occupiers who rely on private water supplies which could be affected by the Scheme. To facilitate the drafting of these statements the landowner/occupier will provide records or information about these private water supplies to the main contractor and permit access to allow survey / details of these supplies to be established / confirmed. These statements shall identify how water supply is to be maintained in the unlikely event that existing supplies are adversely affected as a consequence of the works. The statements shall be produced and provided to landowners / occupiers prior to works commencing and include, as a minimum:

- a) Details and locations of existing boreholes which supply the landowner / occupier;
- b) Recorded results from groundwater monitoring undertaken by the main works contractor (as part of the Groundwater Management Plan) that are relevant to those boreholes;

- c) How an emergency will be reported if water is contaminated;
- d) The procedure for getting water to a farm and how it will be distributed to animals and residential properties if water is affected on a temporary basis; and
- e) The procedure for getting a new supply of water whether from a borehole, mains supply or combination of both to a farm if the water from the boreholes is contaminated on a permanent basis