

# A428 Black Cat to Caxton Gibbet improvements

TR010044

Volume 8

8.11 Draft Statement of Common Ground with Anglian Water

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[ ]**

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**8.11 Draft Statement of Common Ground with Anglian Water**

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<b>Author</b>	A428 Black Cat to Caxton Gibbet Improvements Project Team, National Highways

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Rev 2	4 November 2021	Final for Deadline 4

## STATEMENT OF COMMON GROUND

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

Signed.....

Anne-Marie Rogers

Project Manager

on behalf of National Highways

Date: 4 November 2021

Signed .....

Darl Sweetland

Spatial Planning Manager

on behalf of Anglian Water

Date: 04 November 2021

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# 1 Introduction

## 1.1 Purpose of this document

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared in respect of the A428 Black Cat to Caxton Gibbet improvements (the Scheme) made by 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 produced to confirm to the Examining Authority (ExA) where agreement has been reached between the parties to it, and where agreement has not (yet) been reached. SoCGs are an established means in the planning process of allowing all parties to identify and so focus on specific issues that may need to be addressed during the Examination.

## 1.2 Parties to this Statement of Common Ground

1.2.1 This SoCG has been prepared by (1) National Highways (formerly known as Highways England) as the Applicant and (2) Anglian Water.

1.2.2 National Highways 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 Anglian Water is the operator and maintainer of potable and sewerage infrastructure within the extents of the DCO boundary and for the local community and businesses. The supply of water and treatment and management of wastewater is undertaken using Anglian Water pipelines which cross the DCO site and using facilities that are accessed from locations which will be impacted by DCO works.

## 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 chapter of this SoCG are not of material interest or relevance to Anglian Water’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 beginning of the proposed development. A summary of the meetings and correspondence that has taken place between National Highways (NH) and Anglian Water in relation to the Application is outlined in **Table 2-1**.

**Table 2-1 - Record of Engagement**

### Currently in development

Date	Form of correspondence	Key topics discussed and key outcomes
14/03/2018	Email	Highways England (HE) provided Anglian Water with the following documents: <ul style="list-style-type: none"> <li>• Letter of Authority from HE</li> <li>• C3 application letter</li> <li>• Outline plan of approximate location of the proposed route</li> <li>• Detailed plans of the proposed route.</li> </ul>
16/01/2019	Meeting	A428 design team met with Anglian Water to discuss potential diversion and protection works.
08/04/2019	Letter	Letter from HE to Anglian Water: A428 Black Cat to Caxton Gibbet Scheme – Request for Information (New Interest RFI).
01/05/2019 (tbc)	Letter	Letter from HE to Anglian Water: A428 Black Cat to Caxton Gibbet Scheme – Request for Information - Reminder (Chaser Letters).
31/05/2019 (tbc)	Letter	Letter from HE to Anglian Water: Statutory Consultation Launch Communications - S42a.
23/01/2020	Email	Email from HE to Anglian Water requesting information regarding information about sewer historical flood events within their area of responsibility within the A428 scheme.
27/02/2020	Meeting	In person meeting – A428 Scheme Update and C4 design review.
24/03/2020	Email	Email from HE to Anglian Water following up previous (unanswered) request for information regarding information about sewer historical flood events within their area of responsibility within the A428 scheme.
07/05/2020	Email	Email from HE to Anglian Water with query relating to their land ownership within A428 scheme boundary.

Date	Form of correspondence	Key topics discussed and key outcomes
21/05/2020	Email	Email from Anglian Water to HE in response to land ownership query, stating that they do own the land but not as shown on Land Registry so they will be applying to have the information corrected. Asked HE whether there is any intention to acquire any land in Anglian Water's ownership as part of the A428 development.
03/06/2020	Email	Email from Anglian Water to HE chasing up unanswered query sent on 21/05/2020 regarding whether there is any intention for temporary/permanent land take of Anglian Water land for the A428 development.
03/06/2020	Email	Email from HE to Anglian Water in response to land take query confirming that the land in question is within the scheme boundaries and is required to facilitate development. HE provided details of Anglian Water staff involved in those discussions.
03/06/2020	Email	Email from Anglian Water to HE seeking clarification on whether there is any intention for acquisition of land via compulsory purchase powers.
24/06/2020	Email	Email from HE to Anglian Water: Supplementary Consultation Launch Communications 2020.
02/10/2020	Teams Meeting	Design Progress meeting.
20/11/2020	Meeting	Meeting with Anglian Water to review latest design.
11/01/2021	Teams Meeting	Anglian Water C4 design workshop.
26/04/2021	Letter	Letter from HE to Anglian Water: S56 notification letter,
12/05/2021	Email	Detailed estimate and design from the Statutory undertaker also known as "C4" received from Anglian Water for commercial and technical review.
16/06/2021	Email	Email from Anglian Water to HE setting out the Relevant Representation points
12/07/2021	Email	Email from Anglian Water to HE as follow up to meeting confirming approach to Black Cat protective provisions can be applied to the four other NSIP applications.
20/07/2021	Email	Email from Anglian Water to HE with C4 to inform modelling.
01/09/2021	Email	Email from Anglian Water to NH regarding property matters.
15/09/2021	Email	Email from Anglian Water to NH requesting engagement.



Date	Form of correspondence	Key topics discussed and key outcomes
22/09/2021	Emails	Emails between NH and Anglian Water to progress engagement on matters.
23/09/2021	Meeting	Design progress meeting.
04/10/2021	Email	Email from Anglian Water to Planning Inspectorate copied to NH regarding engagement on property matters.
15/10/2021	Email	Email from Anglian Water to NH confirming positions following the recent meeting on Wyboston Site and Covered reservoir at Eynesbury Hardwicke.
12/10/2021	Meeting	Meeting with NH and Anglian Water to discuss approach to access and maintenance.
19/10/2021	Letter	Email from NH to Anglian Water confirming maintenance of access to the Chawston-Wyboston Water Recycling Centre and the land and reservoir to the south-east of Rectory Farm Cottage and west of Potton Road throughout the construction of the works or provision of alternative access arrangements.
19/10/2021	Email	Email from Anglian Water to NH confirming receipt of letter of 19/10/2021 and advising that they wish to complete matters and update the SoCG before Deadline 4 if possible.

- 2.1.2 Side discussions have additionally taken place between National Highways' and Anglian Water's respective legal advisers.
- 2.1.3 It is agreed that this is an accurate record of the key meetings and consultation undertaken between (1) National Highways and (2) Anglian Water in relation to the issues addressed in this SoCG.
- 2.1.4 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.

### 3 Issues Raised

#### 3.1 Introduction and general matters

- 3.1.1 This section sets out the ‘issues’ which are agreed, not agreed, or are under discussion between Anglian Water and National Highways. On 2 July 2021, the Examining Authority issued a letter under Section 89(3) of the Planning Act 2008 and Rules 9 and 17 of The Infrastructure Planning (Examination Procedure) Rules 2010 (known as the ‘Rule 9 Letter’). Paragraph 2 sets out a request for Statements of Common Ground (SoCG) between National Highways and various parties, including Anglian Water. For Anglian Water, the Rule 9 Letter advises that the following issues should be in the SoCG:
- a. The effects on existing services, apparatus and infrastructure.
  - b. Protective Provisions contained within the draft DCO.
  - c. The provisions set out in section 127 of the Planning Act 2008.

**Table 3-1 – DCO and Legal Matters**

Issue	Document Reference	National Highways Position	Anglian Water Position	Status	Date
The effects on existing services, apparatus and infrastructure		There are a number of conflicts between the proposed works and existing Anglian Water apparatus. Designs shall be produced in a collaborative manner between all parties. The extents and scale of impact upon Anglian Water apparatus will be refined as the scheme progresses.	Anglian Water considered prior to 18 October and changes by NH to protective provisions that these points were nearly resolved. One final step would be to include early liaison by National Highways’ contractors to ensure apparatus was identified jointly and protected and a programme for diversion or replacement agreed. In the absence of a Code of Construction Practice or a DCO Order Implementation Plan which recorded the practical steps and their timing to be undertaken based on agreements reached by	Under discussion	

Issue	Document Reference	National Highways Position	Anglian Water Position	Status	Date
			parties during as Examination this could be included in an update to the Construction Traffic Management in the section that deals with utilities.		
Protective Provisions	Draft DCO [APP-025]	Adequate protective provisions for the protection of Anglian Water's statutory undertaking are contained within Schedule 9 of the draft DCO.	Anglian Water require protective provisions to be included within the DCO to ensure that its interests are adequately protected. On the whole, Anglian Water were content with the protective provisions included in the draft Order subject to ongoing discussion on a number of drafting points set out in Anglian Water's relevant representation. Changes to the draft DCO provided on 18 October introduce additional matters of concern for Anglian Water	The precise terms of the Protective Provisions are under discussion.	
Protective Provisions	Draft DCO [APP-025]	The drafting of paragraph 88(5) of the protective provisions for the protection of Anglian Water as it appears within Schedule 9 of the draft DCO is reasonable and appropriate for the Scheme.	There was a single part of the Protective Provisions which is not agreed by Anglian Water which is paragraph 88(5). This is the paragraph that withholds a portion of compensation for the cost of replacement infrastructure on the basis that "new-for-old" defers some cost.	Under discussion	

Issue	Document Reference	National Highways Position	Anglian Water Position	Status	Date
Protective Provisions	Draft DCO [APP-025]	While National Highways does not agree that uncertainty is introduced, it will continue to discuss this point with Anglian Water.	National Highways' proposed change to paragraph 81 introduces uncertainty into the powers under which the works would be undertaken.	Under discussion	
Protective Provisions	Draft DCO [APP-025]	Noted.	Applicant's change to 85(1) is agreed as it provides for flexibility through written agreement.	Agreed	
Protective Provisions	Draft DCO [APP-025]	National Highways notes the comments from Anglian Water and will continue to discuss this with them.	Applicant's new 85(7) is not agreed as this introduces a time limit when none previously existed and the relationship between National Highways and Anglian Water was to cooperate through the construction of the project. This is notwithstanding the provision in new 93 as written agreement between the parties may not be possible prior to the elapsing of the 14 day period. Should the 14 day period be the only remaining unresolved matter, Anglian Water is prepared to concede this point in order to reach agreement.	Under discussion	
Protective Provisions	Draft DCO [APP-025]	Noted	Applicant's deletion of text in 89(3) is agreed	Agreed	

Issue	Document Reference	National Highways Position	Anglian Water Position	Status	Date
Protective Provisions	Draft DCO [APP-025]	Discussions on this point will continue, however it has been the experience of National Highways that using Anglian Water's systems has not always worked in the past.	National Highways' proposed deletion in 90 is unnecessary as the text includes the provision that Anglian Water's processes should be used where 'it is appropriate to do so'. Anglian Water accepts that some developers prefer not to use Anglian Water's systems and on occasion other methods of cooperation and engagement may be more effective. Not using Anglian Water's system may though lead to delays and misunderstandings and so be less efficient for developers. The deletion is not agreed by Anglian Water.	Under discussion	
Access		<p>National Highways confirms that it will maintain access to the Chawston-Wybston Water Recycling Centre and the land and reservoir to the south-east of Rectory Farm Cottage and west of Potton Road throughout the construction of the works or provide alternative access arrangements.</p> <p>National Highways notes that in some instances it may be necessary to restrict access for limited periods, however, National Highways would seek to minimise the number and duration of any such restrictions as far as reasonably practicable and the Principal Contractor would liaise with</p>	On land and rights acquisition, Anglian Water remains committed to reaching agreement on resolving the question of the access to the Chawston-Wybston Water Recycling Centre (WRC) that National Highways seek to acquire permanently. Anglian Water's preference remains for the undertaker to maintain continuous access to the WRC to operate and maintain access to the site for our customers. Anglian Water therefore seek agreement to ensure that access is maintained until an acceptable replacement is constructed, operable and in Anglian Water's control as an occupier.	Agreed	

Issue	Document Reference	National Highways Position	Anglian Water Position	Status	Date
		<p>Anglian Water to ensure that such disruption is minimised.</p> <p>National Highways also confirms that irrespective of the foregoing, the Principal Contractor would maintain emergency access at all times to both sites throughout the construction of the works.</p> <p>Regarding the proposals in the areas of the Water Recycling Centre and the existing reservoir, National Highways confirms that at both locations the scheme would not directly impact on or alter the existing access arrangements to these facilities.</p> <p>In the case of the Water Recycling Centre, the existing access to the Anglian Water facility is via the Wyboston Services area. National Highways confirms that the scheme would not alter the existing access via the Wyboston Services, and the parties agree that this would continue to provide appropriate access for Anglian Water.</p> <p>National Highways has formerly written to Anglian Water Services Ltd to confirm all of the above matters.</p>	<p>Similarly, we seek to agree the approach of the undertaker to the proposed temporary use of Anglian Water's land and reservoir (covered) to the south-east of Rectory Farm Cottage and west of Potton Road, Eynesbury Hardwicke St Neots.</p> <p>Any replacement access will need to provide equivalent rights to the present access in particular regular unimpeded access for tankers and irregular unimpeded access for large plant and machinery.</p> <p>28.10.21. Anglian Water welcomes the engagement by National Highways on property and access matters and now considers that access matters are agreed.</p>		

Issue	Document Reference	National Highways Position	Anglian Water Position	Status	Date
		National Highways is not proposing to acquire the Water Recycling Centre permanently			
Section 127 Planning Act 2008	Draft DCO [APP-025]	Adequate protective provisions for the protection of Anglian Water's statutory undertaking are set out within Schedule 9 of the draft DCO.	Anglian Water require protective provisions to be included within the DCO to ensure that its interests are adequately protected. On the whole, Anglian Water were content with the protective provisions included in the draft Order subject to ongoing discussion on a number of drafting points set out in Anglian Water's relevant representation.	The precise terms of the Protective Provisions are under discussion.	