

A428 Black Cat to Caxton Gibbet improvements

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9.49 Overview of handover process for de-trunked assets and local
highways

Planning Act 2008

Rule 8(1)(k)

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Planning Act 2008

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Rules 2010**

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improvements
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**9.49 Overview of handover process for de-trunked assets and local
highways**

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Table of contents

Chapter		Pages
1	Summary of legal agreements in relation to the handover of local highways and de-trunked assets	1
1.1	Action Point arising from Issue Specific Hearing 1	1
1.2	Introduction	1
1.3	Summary of the Legal Agreement	1
1.4	Update on discussions regarding the legal agreement with each local highway authority	3

1 Summary of legal agreements in relation to the handover of local highways and de-trunked assets

1.1 Action Point arising from Issue Specific Hearing 2

1.1.1 During Issue Specific Hearing 2, the Panel set the Applicant the following action:

Provide details of the Handover Plan for roads to be passed to Local Highway Authorities (and if applicable land owners) and update on the related side legal agreements with the LHAs.

1.1.2 As the handover process for both the local highways and de-trunked assets are set out in the legal agreements between the Applicant and the relevant local highway authorities, this note provides a summary of the process for handing over both the new local highways and the de-trunked assets to the relevant local highway authorities as contained within those agreements.

1.1.3 This note also sets out an update on the discussions with the local highway authorities in relation to each agreement.

1.2 Introduction

1.2.1 The Applicant has drafted a legal agreement for each of the relevant local highway authorities: Cambridgeshire County Council (CCC), Bedford Borough Council (BBC) and Central Bedfordshire Council (CBC). Each legal agreement incorporates a handover process to deal with the handover of the new or improved local roads from the Applicant after construction. The legal agreements between the Applicant and CCC and BBC also contain a handover process (including the requirement for a handover plan) in relation to the existing roads to be de-trunked. The legal agreement with CBC does not include a de-trunking element as there are no assets to be de-trunked and handed over to CBC as part of the Scheme.

1.2.2 As there are three local highway authorities each with a separate agreement, the process is set out below at a high level. However, it should also be noted that each agreement is in a state of negotiation and discussions between the parties are ongoing. As such this summary is provided as a guide only and should not be taken to reflect the final position that may be agreed between the parties.

1.3 Summary of the Legal Agreement

1.3.1 As noted above, the parties are in active negotiation of this agreement and as such this summary is provided at a high level. As the details are still being discussed, this process may change to reflect on-going negotiations.

The Handover Process for Existing Assets to be De-Trunked

- 1.3.2 Within three months of the date of the agreement, the Applicant will provide the local highway authority with copies of maintenance records for the de-trunked asset. The maintenance records will cover both the maintenance that has previously occurred in relation to the de-trunked asset as well as anticipated maintenance yet to be undertaken, including maintenance anticipated after the asset is likely to be handed over to the local highway authority. The maintenance records would include any significant maintenance event anticipated by the Applicant.
- 1.3.3 At a point prior to the proposed de-trunking date, the Applicant must prepare and submit a Handover Plan to the local highway authority for approval (**De-Trunking Handover Plan**). The De-Trunking Handover Plan will include a range of details as agreed between the parties but essentially will provide sufficient information to the local highway authority to understand the current extent of the asset to be de-trunked, including any drainage, landscaping fencing etc., as well as its current condition. The De-Trunking Handover Plan will also include details and timings of all works, repairs and upgrades necessary to be carried out by the Applicant to bring the carriageway and structures of the de-trunked assets up to an agreed set of standards (**De-trunked Road Standards**). The De-trunked Road Standards will form part of the legal agreement and will be a set of standards as agreed between the parties.
- 1.3.4 The Applicant will carry out any works and all other matters required to be completed as set out in the De-Trunking Handover Plan which are relevant to the de-trunked roads and which bring them into compliance with the De-trunked Road Standards. It should be noted that the legal agreement makes it clear that the Applicant is responsible for the maintenance of the de-trunked roads until the point that the de-trunking has occurred i.e. the De-trunking Date.
- 1.3.5 The legal agreement then sets out a process whereby the Applicant will notify the local highway authority that the works have been completed in accordance with the De-trunking Handover Plan. The local highway authority is then required to confirm whether or not it is satisfied that the De-Trunking Handover Plan has been complied with. The De-trunking Date will not occur until the local highway authority has confirmed that the Handover Plan has been complied with in accordance with a process to be agreed including reasonable timeframes which will be captured in the legal agreement.
- 1.3.6 The legal agreement allows for a defect period after the handover of the de-trunked assets within which the Applicant would be required to rectify any agreed defect.

The Handover Process for New or Improved Local Highways

- 1.3.7 The reference to any local highways in the legal agreement with CCC refers to those highways, public rights of way and non-motorised user routes to be constructed, altered or diverted as part of the Authorised Development that will be handed over to CCC to maintain in its role as local highway authority. For ease this is referred to as local highways collectively throughout this summary.

As currently drafted, the legal agreements for CBC and BBC do not include any provision for public rights of way, although the Applicant would have no objection to the inclusion of this element if that was requested by CBC or BBC.

- 1.3.8 As with the De-trunked Road Standards above, the legal agreement will contain an agreed set of standards to which the local highways (and public rights of way, where applicable) must be designed and constructed in accordance with (**Local Highways Standards**).
- 1.3.9 The detailed design of the local highways will be prepared by the Applicant in accordance with the Local Highways Standards. The detailed design of the local highways will be shared with the local highway authorities and the extent of the role that the local highway authority has at this stage is under discussion between the parties. The information provided at this stage will ensure that the design and extent of the local highway to be handed over including drainage and any landscaping or structure etc, is clearly understood by the local highway authorities.
- 1.3.10 The local highways will then be constructed by the Applicant in accordance with the detailed design.
- 1.3.11 The Applicant must notify the local highway authority following the completion of each the local highways confirming that, in the Applicant's opinion, the local highways have been constructed in accordance with the Local Highways Standards. The legal agreement then sets out a process by which the local highway authority will confirm whether or not in its view the local highways have been constructed in accordance with the Local Highways Standards.
- 1.3.12 The legal agreement will define the process which will determine whether the local highway has been constructed in accordance with the Local Highways Standards and from that point on the local highway authority would assume responsibility for its maintenance. As above in relation to the de-trunked assets, the legal agreement allows for a defect period after the handover of the local roads within which the Applicant would be required to rectify any agreed defect.

1.4 [Update on discussions regarding the legal agreement with each local highway authority](#)

Cambridgeshire County Council (de-trunking and local roads)

- 1.4.2 A summary of engagement with CCC in relation to the legal agreement is set out below.
- a. 11 June 2021: a draft legal agreement was sent to CCC.
 - b. 12 July 2021: a draft of the local highway design standards (not including standards for public rights of way at this stage) was issued to CCC for comment.
 - c. 21 July 2021: the Applicant chased CCC for full comments on the legal agreement.

- d. 5 and 6 August 2021: meetings were held between CCC and the Applicant to provide an introduction to the highways design approach, including the local road design standard review. 23 August 2021: the legal advisors for the Applicant and CCC held a meeting to discuss the proposed amendments sought by CCC to the legal agreement and the dDCO, although no marked up drafts had been shared by CCC at this stage. Despite the intention of the parties to discuss both the legal agreement and the dDCO during this meeting, the discussion on the legal agreement was held over for a future meeting.
- e. 25 August 2021: a meeting was held between CCC and the Applicant to discuss approach to lighting.
- f. 7 September 2021: a meeting was held between CCC and the Applicant to discuss the local highway design standard, lighting appraisal amongst other topics.
- g. Between 13 and 17 September 2021: the Applicant sought to confirm a further meeting with CCC to discuss the legal agreement. The Applicant also requested a copy of the marked up documents in advance of the next meeting.
- h. 17 September 2021: CCC provided the Applicant with its comments on the legal agreement and dDCO.
- i. 20 September 2021: a meeting was held between the legal advisors for the Applicant and CCC in relation to the dDCO and legal agreements.
- j. 29 September 2021: CCC wrote to the Applicant to suggest a further meeting to discuss the legal agreement and dDCO.
- k. 30 September 2021: a meeting was held between CCC and the Applicant to discuss the lighting appraisal.
- l. 1 October 2021: a meeting was held between CCC and the Applicant to discuss elements of the local highway design standard.
- m. 14 October 2021: meeting was held between CCC and the Applicant to discuss the drainage design strategy.
- n. 20 October 2021: a meeting was held between CCC and the Applicant to discuss the legal agreement and dDCO.
- o. 21 October 2021: a meeting was held between CCC and the Applicant to discuss the legal agreement and dDCO.
- p. 26 October 2021: a meeting was held between the legal advisors for CCC and the Applicant to discuss the legal agreement and dDCO.
- q. 2 November 2021: a meeting was held between the parties to discuss the legal agreement and dDCO.

Summary of progress on negotiating the terms of the legal agreement

- 1.4.3 The parties have worked together to understand the points of agreement and disagreement in relation to the amendments made to the dDCO by CCC as well as in relation to the legal agreement. The parties have also been working together to understand and develop the local highway standards and determine where agreement can be reached. .

Bedford Borough Council (de-trunking and local roads)

- 1.4.4 A summary of engagement with BBC in relation to the legal agreement is set out below.
- a. 18 June 2021: draft legal agreement sent to BBC for comment.
 - b. 21 July 2021: the Applicant chased BBC for comment on the draft legal agreement.
 - c. 13 September 2021: the Applicant chased BBC for comment on the draft legal agreement.
 - d. 23 September 2021: the Applicant chased BBC for comment on the draft legal agreement.
 - e. 23 September 2021: BBC confirmed they will not sign the agreement as drafted and would like to understand the assets to be handed over further.
 - f. 28 September 2021: the Applicant responded to clarify that the purpose of the legal agreement was to set out the assets to be handed over and offered a meeting to discuss.
 - g. 8 October 2021: the Applicant chased BBC for comment on the draft legal agreement.
 - h. 19 October 2021: the Applicant chased BBC for comment on the draft legal agreement.
 - i. 1 November 2021: the Applicant advised BBC that it was able to fund legal support for the drafting of the agreement.

Summary of progress on negotiating the terms of the legal agreement

- 1.4.5 The Applicant continues to try and arrange meetings and seek comments from BBC, but to date the meetings arranged with BBC have been cancelled because BBC were unable to attend or confirm their availability and no substantial comments on the legal agreement have been received.

Central Bedfordshire County Council (local roads only)

- 1.4.6 A summary of engagement with CBC in relation to the legal agreement is set out below.
- a. 18 June 2021: draft legal agreement sent to CBC for comment.
 - b. 21 July 2021: the Applicant chased CBC for comments on the legal agreement.

- c. 26 July 2021: CBC confirmed its preferred standard for the local highways and questioned the position regarding maintenance.
- d. 26 July 2021: CBC raised high level points in relation to the agreement and confirmed that they had instructed a solicitor to progress matters.
- e. 12 August 2021: CBC's legal advisors requested an undertaking for their fees.
- f. 19 August 2021: CBC responded with comments on the side agreement received from LGSS Law.
- g. 3 September 2021: WBD acknowledged receipt and confirmed taking instructions.
- h. 16 September 2021: the Applicant approved the payment of legal fees through the established work package process.
- i. 22 September 2021: the Applicant responded to the comments from CBC's legal advisors on the legal agreement.
- j. 7 October 2021: an introductory meeting was held between CBC and the Applicant in order to understand the current issues and topics for engagement.
- k. 19 October 2021: a meeting was held between CBC and the Applicant to review the local highways design standard. 20 October 2021: the approved work package was provided to CBC and CBC were chased for further comments.

Summary of progress on negotiating the terms of the legal agreement

- 1.4.7 The Applicant continues to seek substantive comments from CBC on the legal agreement, but to date the no substantial comments on the legal agreement have been received. However, it is hoped that now the work package has been approved these comments will be forthcoming.