

**PLANNING ACT 2008**

**INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010**

**WRITTEN SUBMISSIONS OF NFU REGARDING THE A428 BLACK CAT TO CAXTON GIBBET  
IMPROVEMENTS DEVELOPMENT CONSENT ORDER APPLICATION BY NATIONAL HIGHWAYS  
PLANNING INSPECTORATE REFERENCE NO TR010044**

**SUBMISSIONS OF NATIONAL FARMERS UNION ON THE – EXAMINERS SECOND WRITTEN QUESTIONS**

**DATE 4<sup>th</sup> NOVEMBER 2021**

**Submitted By:**

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## 1.0 Introduction

1.1 Submissions on behalf of the National Farmers Union (“NFU”) in respect of the application for a Development Consent Order (DCO) by National Highways (NH) for the A428 Black Cat to Caxton Gibbet Improvements. The NFU is making a case on behalf of its members who are affected by the DCO.

## 2.0 Second Written Questions

2.1 **Affected persons’ Q2.5.3.3: Proposed Overbridge Specification:** The NFU in 2016 petitioned the Select Committee in regard to HS2 Phase 1, London to West Midlands in regard to future proofing accommodation over bridges.

- (a) all accommodation overbridges provided for farmers shall be no less than 5 metres wide and capable of taking a loading of 60 tonnes;*
- (b) any new or modified vehicular farm access to the highway is at least 20 metres long and capable of use by all road legal agricultural vehicles.*

The NFU requested that a specification for all access accommodation works like overbridges should be negotiated with each farmer where necessary to access severed land.

The NFU would expect to see the overbridge to be wider than the legal road width of a vehicle and also the weight bearing capacity. To be able to work efficiently on a daily basis, tractors with cultivating equipment and at harvest time, combines need to be able to run easily over the overbridge. To take the width of cultivating equipment between the parapets of the bridge easily is essential.

The NFU asks for overbridges to be future proofed due to the problems which are now occurring with bridges which give access over certain railway lines to severed blocks of land.

2.2 **Construction Compounds: Q2.6.2.2:** The NFU had a further meeting with National Highways (NH) on Friday 29<sup>th</sup> October 2021 and NH stated that they are not prepared to give any more detail than highlighted already in Schedule 7 of the draft DCO. As stated in answers to first written questions the draft DCO presently states that each compound site will be ‘required to provide temporary storage, laydown areas, access and working space to facilitate the construction of.’ The NFU as requested before would like to see that Schedule 7 highlights if any compound is going to be used for something specific, as an example the DCO for A303 Stonehenge highlighted that two compound sites were to be used for a slurry treatment plant and a batching plant. If it is stated clearly in the DCO then there are no surprises when construction starts, and a landowner will know what to expect to see taking place within a compound site on his land. It was not made clear at the start of the A14 Improvement Scheme and a lot of questions were raised to Highways England at the time over the uses taking place on compound sites.

Therefore, the matter is still outstanding with NH.

**2.3 Environmental Management Plan: Agricultural Liaison Officer: Q2.6.3.1:** The NFU at a meeting held with NH on 29<sup>th</sup> October 2021 discussed the ALO role and the responsibilities to be undertaken. NH highlighted that the Principal Contractor will deploy an experienced Community Stakeholder Engagement Team and resource within will be identified to operate as an Agricultural Liaison Officer. The NFU highlighted that the Role of the ALO or ALO Team is far more than community engagement, but it is in agreement if the correct resource is set up and the team of ALOs have the correct experience as highlighted in the wording provided/detailed in the full written representation 31<sup>st</sup> August 2021 this is acceptable.

A further discussion took place in regard to the roles/responsibilities that the NFU has highlighted that it would like to see covered by the ALO. NH highlighted that some of the roles/responsibilities highlighted may be carried out by different teams within construction. An example was highlighted that the Construction Delivery Team would co-ordinate drainage liaison. The NFU stated at the meeting that it understands that some of the roles may be undertaken by a different team and if this were the case it would like to see where in any of the DCO documents submitted the different responsibilities are covered. If they are not highlighted then it wishes to see the experience requirements, the times and phone number to be contacted on for an ALO or Team along with roles not covered to be agreed and highlighted within the FI -EMP.

NH are to review and have said they will clarify to the NFU.

**2.4 Draft DCO: Articles: Article 23: Q2.7.3.10:** The NFU under other DCO schemes has agreed to 14 days notice for surveys as stated within the draft DCO but subject to the agreement that where land is within an environmental scheme a 28 day notice would be given where a derogation will be needed. The NFU believes that this is not an unreasonable request, this would give a landowner time to request from the Rural Payments Agency (RPA) a derogation in regard to the affected area of land which would avoid the landowner receiving a financial penalty.

**2.5 Draft DCO: Articles: Article 40: Q2.7.3.11:** The NFU would like to see a 28 day notice being given when notices are served to take land on a temporary basis for construction of the scheme. A 28 day notice is essential as a minimum and the landowners will still require prior notice to this. It is not possible to plan or change arrangements on farm within a 14 day notice period or give a third party any notice. A landowner/farmer could be away on holiday for two weeks and so would not know if a notice for 14 days had arrived. This helps to change supply deliveries like sprays and fertilisers and if livestock need to be moved from an area this is easier to achieve with 28 days notice. The 28 days will be needed for a derogation as above where land is in an environmental scheme.

As stated by NH in the SoCG to the NFU the Neighbourhood Planning Act 2017 has stated that under Part 2 Section 20 this requires acquiring authorities to give at least three months notice and it also requires the acquiring authority to specify the period for which temporary possession is going to be taken. Even though this is still not in force it shows that it has been realised that under Compulsory Purchase that actually a 28 day notice is not sufficient let alone a 14 day notice.

HS2 already gives 28 days notice before temporary possession can be taken and this lead in time has caused farmers problems. Therefore, the NFU petitioned for three month notice to be included in the Hybrid Bill for Phase 2a. In response to this the Select Committee for Phase 2a in their Second Special Report instructed HS2 that where possession may be for longer than a week farmers should be given advance warning of the quarter year in which the temporary possession is likely to be taken and notice should be not less than three months prior to that quarter. HS2 following this offered an Assurance to NFU on 18<sup>th</sup> April 2019 and it states, **“the Nominated Undertaker will provide at least 3 months’ written notice in advance of the date of entry to the landowner and any occupier in respect of the relevant land to be occupied under temporary possession powers (“the Notice”)”**.

The NFU believes is not unreasonable to request a 28 day notice and if as has been stated to the NFU by NU that relevant landowners will already have had prior notice via consultation it would like to see that it is agreed under the ALO role that advance warning of the notice will be given at least 2 months before the notice is served.

The NFU would like the notice which is served by HE to take temporary possession to state how long the temporary occupation will be for and for details on the programme of works to be provided by the contractor.

The NFU therefore ask the Examining Authority to change the 14 day notice to a 28 day notice at Article 40 para (2). The NFU believes very strongly that a 28 day notice as a minimum is essential for temporary land take on large infrastructure schemes like Black Cat to Caxton Gibbet.

### 3.0 Outstanding Issues

The NFU would like to highlight to the Examiners that the following issues are still outstanding with NH following the meeting held on 29<sup>th</sup> October 2021 in regard to the wording that was sent to cover the following:

- a) Agricultural Liaison officer – which document under the DCO wording to cover the role, experience and contact details.

- b) Soils – Preconstruction Soil Survey, monitoring of and aftercare of soils, the wording that will be included and under which document within the DCO.
- c) Field Drainage – wording that will be included and under which document.