

16th November 2021

The Planning Inspectorate
Menaka Sahai
Lead Member of the Examining Authority
Temple Quay House
2 The Square
Bristol
BS1 6PN

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Dear Menaka Sahai,

A428 Black Cat to Caxton Gibbet Road Improvement Scheme – Procedural Deadline D and Deadline 5

We write on behalf of the Church Commissioners for England (CCE) in connection with land it has an interest in, which will be impacted by the A428 improvement scheme. The land is located broadly between the settlements of Cambourne and Eltisley, as identified within our Written Representation.

This correspondence relates to 'Procedural Deadline D' and 'Deadline 5'. As an Interested Party, there are a number of matters which we wish to cover on behalf of CCE in advance of Procedural Deadline D and Deadline 5 today. These matters are set out within Appendix 1 prepared by Charles Russell Speechlys.

If you would like to discuss any aspect, please do not hesitate to contact my colleague, Nolan Tucker (ntucker@deloitte.co.uk).

Yours sincerely

[REDACTED]

Deloitte LLP

Appendix 1 – Procedural Deadline D and Deadline 5 Submission

THE CHURCH COMMISSIONERS FOR ENGLAND

PROCEDURAL DEADLINE D / DEADLINE 5 SUBMISSIONS

1 INTRODUCTION

- 1.1 The comments below have been prepared on behalf of the Church Commissioners for England (**CCE**) in connection with land it has an interest in which will be impacted by the A428 improvement scheme and previously identified within our Written Submissions.
- 1.2 This correspondence relates to Procedural Deadline D and Deadline 5.

2 PROCEDURAL DEADLINE D MATTERS

Notification of wish to participate in Compulsory Acquisition Hearing 2 (CAH2)

- 2.1 Following the last update, CCE attended a very useful meeting with National Highways. Whilst there appears to be a will on both sides to make progress, there are a number of issues that require further consideration by the parties. The parties are working towards agreement being reached before 24 December.
- 2.2 As things stand, CCE needs to attend CAH2 on 2 December 2021 to present their case. However, given the progress made and the need for discussions to continue, CCE would prefer to concentrate on the resolution of issues between the parties and to have the right to appear at a hearing in January or February 2022 if agreement cannot be reached. The ExA is therefore asked to consider scheduling a further CAH in 2022 to give landowners a final right to make representations following conclusion or exhaustion of negotiations with National Highways.
- 2.3 Should this not be acceptable, then Claire Fallows (Charles Russell Speechlys LLP) intends to raise the following issues at CAH2:
 - 2.3.1 The need for powers of compulsory purchase in respect of CCE land and whether the statutory tests and requirements of guidance are met;
 - 2.3.2 The specific issues arising out of the scheme design in respect of the CCE land;
 - 2.3.3 The approach to the borrow pit – works and restoration;

2.3.4 The impact of the DCO on farming practice and tenancies.

Issue Specific Hearings 4 (ISH4) and 6 (ISH6)

- 2.4 CCE wishes to attend ISH4 to speak to Agenda Item 3 (Biodiversity) if required to reiterate its objection to the contention set out in the Joint Local Impact Report (LIR) from Cambridgeshire County Council, Huntingdonshire District Council and South Cambridgeshire District Council (at page 23, page 79 and page 103) that an opportunity has been missed to provide on-site biodiversity net gain or mitigation for climate change by use of the borrow pits. CCE maintains a strong objection to this.
- 2.5 CCE wishes to attend ISH6 but does not anticipate raising any specific issues.

3 DEADLINE 5 (D5) SUBMISSIONS

Comments on responses to the ExA's WQ2

Q2.5.3.8 b) NH response to the concerns raised regarding Plot 13/10c and 13/10d (now renumbered 13/14c and 13.14d) and CCE not being able to identify which land will be affected or assess the impact on its land (page 38).

- 3.1 CCE reiterates the points made in its Deadline 4 (**D4**) Submissions [REP4-064], namely:
- 3.1.1 NH has failed to establish that the temporary land take and permanent rights in Plots 13/14c and 13/14d are needed for the development and are no more than is reasonably required. NH should explain why it is promoting a DCO where the scheme has not been sufficiently designed to establish land requirements.
- 3.1.2 CCE notes NH's response to REP3-044G on the lack of certainty as to the locations in which the acquisition of rights are actually required in its comments on Landowner Submissions at Deadline 3 [TR010044-001337] at page 8, namely that NH has factored in "lessons learnt" from the A14 to avoid acquiring land unnecessarily. CCE would welcome clarity on how those lessons learnt have been incorporated into the draft DCO.
- 3.1.3 NH's response states that the landowner will be consulted on the proposals at the appropriate time, especially as the electricity cable connects to the farm. However, NH has indicated in discussions that the next "formal" consultation will be when notices are to be served in

order to acquire rights / land. As stated in CCE's D4 Submissions, there is no formal requirement in the DCO to engage with landowners on the detailed design. Absent an agreement in place, CCE would like such engagement / consultation with landowners to be secured in the DCO.

Q2.6.2.1 Borrow pits (page 41)

- 3.2 Again, CCE reiterates its response to Q.2.6.2.1 in its D4 Submissions and has expressed concern to NH regarding the current level of detail in the Borrow Pits Excavation and Restoration Report.3.0 and the need for further engagement on a detailed specification for works / restoration
- 3.3 **Biodiversity.** In response to the submissions from the Cambridgeshire authorities on incorporating biodiversity and green infrastructure enhancements into the borrow pit restoration schemes to produce biodiversity net gain, CCE agrees with NH's position (pages 44 and 45 of [TR010044-001352]) and restates its strong objection to this.
- 3.4 Compulsory acquisition of land to provide biodiversity net gain is not required for the development and therefore retaining this land for biodiversity net gain would fail to satisfy section 122 of the Planning Act 2008. CCE acknowledges NH's comments (on landowner submissions at Deadline 3 [TR010044-001337] at page 8) that it has always been the intention of the NH to return the land used for the borrow pits back to agricultural use on completion of the works.
- 3.5 **Status of the Borrow Pits Excavation and Restoration Report (the Report).** Although CCE considers that the Report lacks sufficient detail as stated in its D4 Submissions, it contains significantly more detail than Annex E to the First Iteration EMP, particularly in regards to excavation methodology and mitigation measures, which would not be secured under the DCO (because compliance with the report is not secured under the DCO). Paragraph 2.5.1 of the Report states that restoration will be completed to a condition to enable agricultural use as illustrated in the Environmental Masterplan and secured via Requirements 6 and 12 of the DCO. However, the Environmental Masterplan simply states that the proposed borrow pits will be returned to agricultural use – there is no detail at all as to how restoration will be undertaken and to what level e.g. whether the borrow pits will be restored to their previous agricultural land class.
- 3.6 CCE notes NH's comment on landowner submission at Deadline 3 [TR010044-001337] at page 8 that the survey results for current condition will set out the specifications for restoration and as outlined in the Soil Handling Management

Plan, these will be developed for individual land parcels, subject to landowner agreement to the surveys being completed. CCE consider a specific obligation on NH to ensure that land is restored to the same Agricultural Land Class (or better) as prior to the borrow pit use is required. .

3.7 **Update on possibility of plots affected by borrow pits to be secured by lease.** As noted above, following Deadline 4, CCE and NH met on 12 November 2021 to discuss the proposed Heads of Terms for an agreement for lease of Plot 14/21h to be used as a borrow pit. It is proposed that negotiations progress in November / December, with a view to settling the documents before 24 December.

3.8 CCE supports the comments of Davison & Company to Q2.5.3.7 at Deadline 4, namely that the fact that the borrow pits may be materially changed is no justification for the proposed compulsory of such land which the NH concede is required for a temporary period only for the purposes of the construction phase of the DCO scheme.

Q2.6.3.1 Agricultural Liaison Officer (ALO) (page 54)

3.9 CCE welcomes the inclusion of an ALP in the Community / Stakeholder Engagement team to act as the dedicated point of contact for the farming community throughout the duration of the Scheme construction and looks forward to receiving further details regarding the responsibilities of the ALO.

Q2.7.3.10 and Q2.7.3.11 – Notice period in respect of Article 23 and 40 (page 68)

3.10 In relation to the proposed extension of the notice period in Articles 23 and 40 from 14 days to 28 days, CCE reserves the right to comment on NH's response if required at Deadline 6.

Updated Outline Construction Traffic Management Plan (OCTMP)

3.11 CCE notes that following its comments, the reference to Customer Plan and Stakeholder Engagement and Communications Plan has been removed from the OCTMP. Page 25 of the OCTMP states that "those people affected by more localised limitations to vehicle movements will be engaged directly to minimise disruption to them and provides an example of making arrangements with a works team to enable farm vehicles to safely cross a haul route or working space during planting or harvest periods, or rescheduling a work package to enable farm work to take place unhindered during certain periods." CCE would like a firmer commitment by NH on how they will engage / communicate with

those affected by the DCO, given NH has indicated that there is no guarantee that existing accesses can be maintained open at all times.

Updates to the Book of Reference

- 3.12 The Book of Reference should be updated to reflect the fact that CCE have interests in Plots 13/12a, 13/12b, 13/10f, 13/10g, 14/6a and 14/6e pursuant to an option agreement dated 27 January 2021. The Book of Reference should also be updated to reflect that CCE has asserted ownership to the centreline of the ditch which abuts its land (Plots 13/11a and 13/11b) and to the centre line of the road to be stopped up on Plot 13/2c which should be reflected in the Book of Reference. This has been notified to NH by CCE.