

## **Application by Highways England for an Order Granting Development Consent for A428 Black Cat to Caxton Gibbet Improvements**

### **The Examining Authority's written questions and requests for information (WQ3)**

**Issued on 22<sup>nd</sup> December 2021 Submission Deadline 8**

#### **Ecology**

##### **Q3.3.2 Biodiversity Net Gain (BNG)**

###### **Q3.3.2.1 Metric for calculating BNG**

- a) NE, following discussions at ISH4 [EV-060] and the submissions at D6 [REP6-036] [REP6-030] [REP6-068] [REP6-062] confirm if you consider the Applicant's calculation for BNG using the DEFRA 2.0 metric shows a net loss or net gain or neutral finding.
- b) NE, if you consider the calculations to show a net gain, and based on your current position that you are satisfied that the delivery of the Proposed Development would achieve genuine gains in biodiversity when compared with existing conditions [REP6-017], why do you still feel that the ES should be updated with the findings of the DEFRA 2.0 metric?
- c) NE, in what way do you believe that the findings of the DEFRA 2.0 metric would revise the assessment of the effects of the Proposed Development on biodiversity in the ES with reference the NPS NN (Paragraph 5.33) which requires the Applicant to maximise opportunities resulting in beneficial biodiversity or geological features in and around developments? Applicant and LAs may respond.
- d) Applicant, explain the reasons and criteria that would be determine the use of DEFRA 2.0 for road NSIPs [REP6-030] [REP6-062], and if those criteria be relevant here. NE and LAs may respond.
- e) NE and LAs, with particular reference to Rules 3 and 5 of the DEFRA User Guide [REP6-068] and the Cambridgeshire Council's position [REP6-062 Sections 3, 4, and 6] comment on the Applicant's position at ISH4 [EV-060] that a quantitative increase of low quality habitat outweighs or is equivalent to the high value habitats being replaced. Applicant may explain.
- f) Applicant and NE, the Cambridgeshire Councils raise concerns regarding the loss of habitats of medium/ high distinctiveness and that further on-site and off-site compensation is required [REP4-059, Q2.3.2.1] [REP6-064] [REP6-062 Sections 3, 4, and 6]. What are your views on this and how it could be delivered?

###### **Q3.3.5.1 Adequacy of mitigation measures**

- a) Applicant, for the identified bat crossings of the Proposed Development identify all existing and proposed landscaping features that will help guide bats to these crossing points. What assurance can the ExA have that the proposed landscaping will function as intended?
- b) What landscaping or other measures will help guide other animal species, including mammals, birds, amphibians to these crossing points?
- c) Applicant, provide examples of the evidence referred to at ISH4 [EV-060] showing that bats will use multi-purpose underpasses, including ones used by humans.
- d) What evidence is there that other animal species will use such multipurpose underpasses?

Maintaining functional connectivity is a significant challenge for all developments. The linear nature of road schemes means they often act as barriers to wildlife movement across large areas of the landscape. Although this scheme is only within Bedford Borough for a relatively short distance (our comments are restricted to this area), there are three points where it crosses wildlife commuting and foraging routes which are of particular significance. These were all identified within the surveys carried out as part of the Environmental Statement. The quality, quantity and availability over time of the landscape features connecting to these crossing points, are all vital elements which will impact on their continued use by wildlife. We will consider each significant crossing point in turn plus an additional point which is marked as a crossing point on the Environmental Management Plan:

- 1) River Great Ouse – this is a major wildlife corridor within the Borough. It includes a range of wetland habitats which support diverse species assemblages, as well as linking many other wildlife rich sites. In the area where this scheme crosses the river it is known to be used as a commuting and foraging route for bats, badgers and otters, along with a range of other species. As the proposed road would cross the Black Cat Quarry and the river on a viaduct, it is unlikely that it would act as a significant barrier for species moving along the river once operational. The viaduct is high with no built structures within the river. Maintaining the vegetation along the banks of the river during construction is vital to enabling it to continue to function as a commuting route during this phase.
- 2) East Coast Mainline Railway – the vegetation along the sides of the railway line creates a linear feature across the landscape which is known to be used by bats and is likely to be used by a variety of other species. The band of vegetation along the railway line is quite narrow in the area where this proposed road would cross. To maintain the connectivity across the scheme during both the construction and operational phase this vegetation needs to be retained and enhanced. The Environmental Master Plan does include vegetation retention at this point. The commuting route would be enhanced by the continuation of the hedgerow planting within the scheme's boundary to the south of the road.
- 3) Hedgerow Linkages north of Sir John's Wood County Wildlife Site– The ecological surveys included in the Environmental Statement highlighted the importance of the hedgerows north of Sir John's Wood for commuting bats and badgers. There are several small woodlands either side of the proposed scheme in this area which are currently linked by hedgerows. To maintain one of these linkages, a bat tunnel is included within the scheme along the line of the hedgerow where most bat and badger activity was observed. Other hedgerow linkages would be lost. The Environmental Master Plan does include areas of woodland planting, species-rich grassland, hedgerow and mammal fencing to guide wildlife towards the tunnel and away from commuting routes severed by the scheme. The bat tunnel has a grill at each end which includes an opening to allow badgers (and other wildlife) through. It is not linked to any pedestrian routes. It is the only feature like this included

within the scheme. Whilst we are satisfied with the specification of the bat tunnel and the proposals for surrounding landscaping, no information has been provided to describe how this important commuting route will be maintained through the construction period and be fully operational as the scheme (if granted permission) opens. The existing hedgerow is marked for removal. We had hoped that this would be provided in the second iteration of the Environmental Management Plan, however, the revised First Iteration clarifies that this is not to be the case. To maximise the chances of the bat tunnel being successful, the existing hedgerows linking it to the surrounding woodlands need to be retained through the construction period, with the surrounding landscaping designed to become functional as soon as the scheme becomes operational. These are key elements to create functional connectivity across the road. Without consideration of these issues an isolated bat tunnel would be installed which is not connected to the surrounding landscape until the new planting matures many years into the future.

- 4) New Alington Top Farm Accommodation Bridge – This bridge is a new structure which is indicated as being suitable for mammal crossing in the Environmental Management Plan. It is primarily an access crossing with very limited use for wildlife. The verges on each side of the bridge are marked for amenity grassland planting with no vegetation on the bridge itself. The bridge provides limited connectivity for wildlife, however, opportunities to enhance the landscaping proposals to improve this could be explored.

#### **Q3.4.1.1 Carbon Emissions**

d) BBC and the Cambridgeshire Councils, evidence to show carbon budgets for Bedford [REP6-134 Annex 1], Huntingdonshire and South Cambridgeshire [REP6-063] produced by the Tyndall Centre has been provided. However, for all cases the Carbon Budgets are described as “Energy Only”. Confirm whether this would include transport emissions such as would be produced by the Proposed Development during construction and operation. Applicant and TAN may comment.

This is not a matter the Council has the expertise to comment on.

e) TAN, BBC and the Cambridgeshire Councils, what would be the effect on these local and regional carbon budgets [REP6-134 Annex 1] [REP6-063] of the Proposed Development over the 60-year project lifetime, with particular regard to the apportionment of carbon emissions for road transport used by BEIS [REP6-121]? Applicant may comment.

This is not a matter the Council has the expertise to comment on.

f) Applicant and LAs, in what way would the Proposed Development affect the ability of LAs to meet any locally or regionally adopted carbon reduction targets?

It would not impact BBC as a local adopted target, as the Council currently has a net zero target by 2030 but this is currently based on its own emissions as a Council.

### **Q3.5.2.1 Protective Provisions**

Statutory Undertakers as and when agreement is reached, provide a statement confirming all matters have been agreed and there are no outstanding objections, either in the SoCG if there is one or via a Deadline submission.

Noted no comments to add at this time.

### **Q3.6.2 Borrow pits, construction compounds, waste management**

**Q3.6.2.1** Comment on Annex R Borrow Pits Management Plan in the First Iteration EMP [REP6-008].

Bedford Borough has reviewed the information supplied by the applicant to PINS. The information supplied within the Annex R really doesn't do anything to change the position of the Council in this matter.

We continue to have concerns in relation to noise and dust that mean the Council cannot remove their objection with regard to the borrow pits

As before, National Highways has listed a number of control systems. These are significant and would likely be in line with Best Practicable Means as has been alluded to by NH. This means that should the mitigation be undertaken and residents continue to be disturbed it would be unlikely the Council would be able to require further action from the Primary Contractor.

However, although there is now a proposed list of equipment to be used in the borrow pits there is still no data of the level of noise impact and dust impact occurring from the activities within the borrow pits that would need to be mitigated. Therefore it is still not possible to assess whether these strategies would successfully protect the local residents.

The core issue is still extant. There are a list of mitigation strategies but no assessment of the noise impact to measure those strategies against.

### **Q3.6.3 Environmental Management Plan**

**Q3.6.3.1** First Iteration EMP

*d) All Parties, provide comment as to whether those activities referred to in First Iteration EMP [REP6-008, 1.4.3 a or b] are reasonable to be excluded from the set construction hours set out in the ES. How would they be controlled?*

BBC considers that it would be reasonable to set a restriction on the times that the activities in REP6 – 008 Appendix K 1.4.3 could take place outside the set construction hours. In terms of vehicles arriving to site or the compounds, there could be local disturbance if the site is not opened before 0700hrs, or if vehicles leave site after closedown. The Principal Contractor should monitor compliance against the activity outside the agreed construction hours.

**Q3.7.2.1 Definitions** All relevant parties comment on the Pre-commencement plan [REP6-028] and definition of pre-commencement in Article 2 of the dDCO [REP6-003].

The Council has no concerns with the wording.

### **Q3.9.2.2 Drainage and Flood Risk Management**

No comments to add.

### **Q3.11.2.1 Road Layout Junctions and Bridges**

*c) LHAs comment on the content of the Technical Note [REP6-041], including whether the approach explained in the document differs from that previously presented by the Applicant. If not, what are the implications, if any, of the residual effects after mitigation that is secured in the dDCO, excluding 'monitor and manage'.*

It is the view of Bedford Borough Council that the approach to Monitor and Manage has not been clearly laid out through the DCO process. Only one location in Bedford Borough was identified in the Transport Assessment Annex APP-243 section 3.16 for a 'monitor and manage' approach - (the A421 / A6 junction). This gives reassurance that the future performance of this junction will be reviewed after the scheme opens.

However, Bedford Borough Council is of the view that the impact of the scheme should be considered in a wider context that just that on the strategic road network (SRN). BBC has identified a list of locations where traffic monitoring in advance, during, and after the scheme's construction is considered to be informative. These lists are included in BBC's responses to section h) of this question, and Q3.11.7.5 d).

Although REP6-041 clarifies the position on the Monitor and Manage process, it also makes clear that the extent of National Highways' monitoring activities will be restricted to the SRN only, and that Local Highway Authorities are expected to take on the responsibility for addressing unforeseen impacts on the local highway network which might arise from the scheme. No additional earmarked funding is allocated to gathering evidence of these impacts or for any follow on mitigations, and the LHAs would have to apply to Government funding pots to fund them. BBC's view is that the impacts of the scheme should as a matter of principle be considered more widely than the immediate SRN corridor only.

If the mitigation of the scheme as reflected in the Monitor and Manage approach remains as proposed, there is a risk that some of the scheme's impacts on the local highway network would go unmitigated. As yet, there is no mechanism to identify, monitor, or mitigate potential local impacts.

*h) It would appear that LHAs consider the full costs associated with the requested monitor and manage scheme should be met in full by the Applicant. How is this justified given your own statutory duties to manage the expeditious movement of traffic on the local network?*

The monitoring requested by the Local authorities is not directly related to the network management duty. It relates to the need to assess and understand the impact of the proposed development. BBC has requested monitoring in the following locations which we consider may be adversely affected by traffic diverting away from the current SRN during the operation of the scheme,

- Roxton
- Great Barford
- Willington
- Little Barford

The results of this monitoring will help in the Network Management duty but not replace it. This scheme monitoring is related to the impact of the scheme and therefore should be funded by the Applicant as with any other development scheme.

*j) Are LHAs aware of similar Requirements being included in other made DCO road schemes such as the recently constructed A14 Cambridge to Huntingdon Improvement Scheme? How is it justified in relation to the Proposed Development? Applicant to also respond.*

BBC is aware that the DCO for the A14 includes a signed agreement that sets out the need for a monitoring schedule to be in place prior to any construction taking place. This agreement stipulated the location of the counts and the responsibility for undertaking as the sites include sites on the Counties annual monitoring rota as well as sites that are included in the monitoring of the Northstowe Development.

The monitoring was to take into account the impact of specific development traffic and background growth from the base year counts undertaken before any works or advanced signage was erected with the surveys being undertaken in April 2016.

The agreement was entered into as a result of a requirement contained in the DCO that required a scheme of monitoring and mitigation to be submitted to and approved by the LHA including a mechanism for the future agreement of mitigation measures (paragraph 17, Schedule 2 of the A14 DCO). The signed agreement was the mechanism for discharging the latter requirement. The arrangements were included at the suggestion of National Highways who considered it necessary on that scheme. The present DCO application is not viewed differently in this respect by the LHAs, but greater detail in the DCO as per the wording put forward by the LHAs would be beneficial to all parties and is necessary to clarify the extent of responsibilities.

*j) LHAs, what would be the trigger point(s) of such a requirement?*

BBC understands that if the monitoring highlighted an adverse impact as a direct result of the A14 scheme, then the Applicant was to fund mitigation that should be agreed with CCC and the local Parish Council. The triggers were to be discussed and agreed by all parties on a site-by-site basis as some sites may be more directly

impacted by development traffic than other sites. BBC would seek to adopt a similar way of working.

#### **Q3.11.7.1 Construction Workers Travel Plan**

*The Applicant has provided an Outline Travel Plan [REP5-016] for workers associated with the construction of the proposed development.*

*a) The Examining Authority invites comments on its content and scope from any Interested Party so as to inform any future iterations of the document.*

The Outline Travel Plan is included as part of the Environmental Management Plan, and LHAs will have been consulted on the Second Iteration of the EMP before it is submitted to the Sec of State for Transport for discharge.

Travel Plans should be iterative plans which can evolve if circumstances change throughout the project delivery. The proposed appointment of a Travel Plan Champion is usual practice and to be welcomed, but the mechanism for the champion to respond to possible changes in travel patterns due to operational requirements is unclear if the Travel Plan is fixed before discharge. Section 4.3 suggests that certain initiatives will be implemented where appropriate, but there is no indication of how or if this will be monitored.

*b) Does the Applicant intend to investigate further the feasibility of provision of temporary bus stops or the creation of welfare facilities that may encourage sustainable travel to site compounds?*

*c) Is it the intention of the Applicant that the Travel Plan would relate to pre-commencement works? If not, explain with reasoning. If so, provide wording for cross-referencing between the two certified documents.*

#### **Q3.11.6 Non-motorised users**

##### **Q3.11.6.1 Providing opportunities for NMUs**

No further comments to make.

#### **Q3.11.7.2 Adequacy of updated Outline CMP**

*All parties comment on and highlight any pending concerns with the updated Outline CTMP [REP4-011], giving due regards to the Applicant's summary table detailing how comments received to date from IPs and particularly LHAs have been addressed or considered [REP4-037, WQ2.11.7.2].*

Bedford Borough hasn't raised any specific issues in the last set of WQs. Our concerns are picked up in the following questions.

#### **Q3.11.7.4 Local impacts of construction traffic**

*a) How does the strategic traffic model provide a reliable picture of likely construction traffic movements in the absence of such data being available to the ExA?*

The strategic traffic model potentially indicates the worst-case scenario as a result of self-diverting traffic as the model assumes that traffic in the base year was travelling at or close to the speed limit (60mph) whereas in actual fact the traffic was travelling much slower due to high volumes of traffic and congestion at key junctions including Black Cat. Therefore, the model shows the potential for widespread rerouting caused by traffic self-diverting away from the existing A428 due to the reduced speed limits to be imposed.

### **Q3.11.7.5 Monitoring of traffic rerouting during construction**

*The ExA are unconvinced that there is currently a robust mechanism or methodology agreed between the Applicant and LHAs to effectively monitor and manage the impact of traffic re-routing on to the local network during the construction phases of the Proposed Development.*

*a) Do the Applicant and LHAs agree that such an approach is necessary, for the purposes of effective traffic management during construction phases, beyond any existing arrangements for collaboration? Explain with reasoning.*

The Local Authorities are of the opinion that such an approach is necessary because the impact of unrestricted self-diverting traffic especially HGV traffic away from the SRN can have a significant impact on affected communities.

BBC understands that this has been a particular issue in Cambridgeshire during the construction of the A14 where a range of problems were experienced (these are set out in more detail in the CCC response to this question).

*b) The Applicant is asked to respond to the proposed Requirement of the LHAs [REP6-074] relating to a construction phase monitor and manage scheme.*

*c) It would appear that LHAs consider the full costs associated with the requested monitor and manage scheme should be met in full by the Applicant. How is this justified given your own statutory duties to manage the expeditious movement of traffic on the local network?*

As with the operational phase comments above the focus of this requirement is to understand the impact of the scheme and introduce measures to limit the impact of the scheme on local communities, it does not replace the Network management duty but rather expands on the information available.

*d) Are LHAs aware of similar Requirements being included in other made DCO road schemes such as the recently constructed A14 Cambridge to Huntingdon Improvement Scheme? How is it justified in relation to the Proposed Development? Applicant to respond.*

We understand from CCC that the A14 agreement did not specifically include Construction traffic but the experience of the Cambridgeshire Authorities is that self-diverting traffic during construction was a major issue both in terms of impact on local communities and damage to the local road network and therefore the Councils request that monitoring of construction traffic be specifically included in the DCO.



The locations in Bedford Borough where this monitoring would be required during construction includes, but is not limited to the following:

- Roxton
- Great Barford
- Willington
- Little Barford
- Chawston
- Colesden
- Wilden Renhold
- Ravensden
- Staploe and Duloe

e) LHAs, what would be the trigger point(s) of such a Requirement?  
The trigger point(s) would need to be agreed on a site by site basis.

### **Q3.12.2 Brook Cottages**

#### **Q3.12.2.1 Written summary of oral representation at ISH4**

**HistE and BBC, submit a written summary of your oral representation for ISH 4 agenda item 6 [EV-055], referring to transcript [EV-066] and recording [EV-061].**

6 (a) As per HE's response, early conversations with the applicant regarding the need to undertake the necessary survey work at Brook Cottages did throw up the issue of gaining entry and the permission of the occupant; although initially the applicant had hoped to negotiate with the occupant to allow this to happen. We became aware of the fact that the applicant would be unable to undertake the necessary survey work posed a challenge to the applicant probably in early 2020 and at the start of the COVID crisis when undertaking such a survey could prove dangerous to the occupant.

6 (b) Based on the information currently available, the proposed removal of Brook Cottages will result in substantial harm to the significance of the asset. It is also likely that successful relocation would also result in substantial harm. Re-location (under the provision that sufficient historic fabric is retained during the process) would mitigate the impact in terms of avoiding the total loss of the heritage asset, a preferable outcome when compared to substantial harm; and would likely lead to heritage benefits (such as preserving the optimum viable use of the asset, or if used as a museum exhibit reveal historic building techniques and increase the understanding of its evidential interest). There may be other, non-heritage related public benefits flowing from its relocation, such as the retention of the building as a dwelling, or educational benefits.

We agree with HE that different methods of dismantling needs to be built into the Requirement and the process therein, and would like to be involved in those discussions given that BBC will be involved in the discharge of Requirement 16 alongside HE.

6 (c) [No oral representation made]

### **Q3.12.2.2**

**At ISH4 [EV-061] there was a discussion regarding the methodology, practicalities and the value of relocating Brook Cottages. Submit a joint position statement between Applicant, HistE and BBC...**

Following a virtual meeting dated 12/01/2022, a joint position statement has been written between the parties and will be submitted by the Applicant to meet Deadline 8.

### **Q3.12.2.3 Black Cat Junction Options**

No further comments to add.

#### **Q.3.12.2.3 (a)**

No comment – BBC will await the answer given by the Applicant before commenting.

#### **Q.3.12.2.3 (b)**

No comment.

#### **Q.3.12.2.3 (c)**

No comment – BBC will await the answer given by the Applicant before commenting.

#### **Q.3.12.2.3 (d)**

No comment – BBC will await the answer given by the Applicant before commenting.

#### **Q.3.12.2.3 (e)**

No comment – BBC will await the answer given by the Applicant before commenting.

### **Q3.14.1.1. Geology and Soils**

The original information on the ALC grade for the unworked borrow pit land was grade 1 and Bedford Borough Council has questioned the ability for the worked area to be restored back to this grade. The Council is not aware of any examples where this has been achieved nationally and the information provided does not appear to confirm this.

