

Application by Highways England Company Limited for the A428 Black Cat to Caxton Gibbet Road Improvement scheme

Representations made at Deadline 8 on behalf of Davison & Co (Great Barford Ltd)

Interested Party Reference No: 20028217

We comment as follows in respect of the Applicant's Deadline 6 submissions:

1. Compulsory Acquisition Schedule

We note the Applicant's account of engagement in the Compulsory Acquisition Schedule (9.4) and make the comments / amendments as set out below in red by way of a response on behalf of Davison & Company (Great Barford) Limited, in order to establish an accurate and full account of the nature and extent of the Applicant's engagement with them to date.

By way of update for the Examining Authority on the current status of negotiations; most recently the parties met for an all parties call on 5th January 2022 and progress is now being made in particular for the lease for the Borrow-pit land. Davison & Company (Great Barford) Limited are however concerned that there remains substantial work to do to reach agreement on the leases and option in a very short timescale before the end of the examination. Solicitors are not instructed in respect of the leases and we await crucial information from the Applicant in order to progress the Option. We are already at risk of falling behind the 'timetable' agreed as one of the ExA's actions following Compulsory Purchase Hearing 2 and look forward to hearing from the Applicant as a matter of urgency.

Status of negotiation: The Parties initially met together with their agents on 23 June 2020 and opened discussions about the principle of seeking to reach agreements for the land and rights purportedly needed for the scheme. The Applicant undertook to draft agreements for the land and rights needed as an agreed action. The Applicant wrote to the interested party on 18.09.20 with a letter offering a meeting to discuss the negotiations around a private agreement to secure the land and rights in land sought by the project. The form with that letter was returned on 22.12.20 expressing an interest to enter into negotiations and discussions are underway with the Applicant. In particular negotiations are proceeding in relation to a lease to secure the land required for the borrow pit at the Caxton Gibbet junction. In the absence of the Applicant providing the draft agreements in accordance with the meeting on 23 June 2020 (notwithstanding regular chasers from the Interested Party) the Interested Party prepared and distributed Heads of Terms on 6th July 2021 for a suite of voluntary agreements comprising (i) a lease of the 'borrow-pit land' (ii) a lease of the compound areas and (iii) an option to purchase the the highway land and subsequently chased without detailed response on the terms until 7th October 2021, when responses to the head of terms were belatedly provided by the Applicant but for the Lease only. The Applicant has drafted Heads of Terms for a Lease agreement with the landowner on 7 October 2021. This was followed up with a phone call to their agent who confirmed receipt. Further discussions were had regarding the leasehold rent. The agent is to seek client instructions. This was followed up with a further phone call on 15 October 2021, but there was no response. A further phone call was made to the agent on 22 October to discuss progress on the Heads of Terms. These were being reviewed and discussed with the client and a response is anticipated week commencing 1 November 2021.

A meeting was held between the Applicant and agent on 26 November 2021 to discuss Heads of Terms however the Applicant's agent indicated that he was not in a position to discuss Heads of Terms in full. Following this meeting, the Applicant emailed the agent on 29 November 2021 in respect of the Dispute Resolution clause for the option agreement only, stating in respect of the Heads of Terms for the leases and option that he would issue revised Heads of Terms "in due course" with amendments to the Heads of Terms. The agent responded on 30 November 2021 with further suggested amendments to the Heads of Terms. The Applicant responded on 8 December 2021. The Applicant held a meeting with the landowner's agent on 9 December 2021 to agree a timetable for negotiations. This was followed up with email correspondence confirming the timetable on the same day. The Applicant has since heard back from the landowner's agent on 10 December 2021. A meeting was held on 13 December 2021 to discuss Heads of Terms and the land agent provided follow up points, to which The Applicant responded to these points on 14 December 2021.

2. Comments on any other information and submissions received at D6

We comment as follows in respect of the following documents:

2.1 Environmental Masterplan

We note the introduction of a proposed pond in plot 14/16a as part of the proposed Great Crested Newt mitigation and Natural England licencing. We are actively considering if this has any practical implications for the Landowner accessing retained land in the future and will liaise with the Applicant and ExA in due course.

2.2 Written submission of oral case for Compulsory Acquisition Hearing 2 on 2 December 2021

The Applicant says:

“The Applicant confirmed that it has continued to negotiate with Mr Warnett with regards to Davidson and Co and Great Barford Limited and a meeting was held on 26 November where Heads of Terms were discussed at length and an email went out on 29 November with a response received on 30 November.”

For the record, Heads of Terms were not discussed at length on the meeting on 26th November as the Applicant’s new agent had not had the opportunity to review them in detail. The Applicant’s agent sent an email on 29th November 2021 relating to the dispute resolution clause for the option and noting amended Heads of Terms would be issued in due course.