

## **EWR Company: Comments on Responses to Examining Authority's Third Written Questions A428 Black Cat to Caxton Gibbet Improvement Scheme**

**Deadline 9, 25<sup>th</sup> January 2022**



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## **1. Introduction**

- 1.1. This document sets out East West Railway Company's (EWR Co) comments on responses to the Examining Authority's Third Written Questions. Where a comment is not subject to reply it is because EWR Co does not wish to comment further on a particular matter at this stage. It should not be interpreted that the comment is accepted or conceded unless this is expressly stated.
- 1.2. Section 2 sets out EWR Co's comments on responses to the Examining Authority's Third Written Questions as follows:
- 1.3. Table 1: EWR Co's comments on the Applicant's responses to the Examining Authority's Third Written Questions

## 2. EWR Co's comments on responses to the Examining Authority's Third Written Questions

Table 1: EWR Co's comments on the Applicant's responses to the Examining Authority's Third Written Questions

Item No.	Document name and PINs Reference No.	Extracts	EWR Co Response
<b>EWR Co's comment on Applicant's Response to Q3.5.2.2: Proposed Draft Protective Provisions</b>			
1	Applicant's Response to Q3.5.2.2(a) on page 81 of [REP8-014]	<p>a) The ExA had requested to see EWR's draft Protective Provisions and the Applicant's counter proposal of a cooperation agreement since the start of the Examination [EV-016] [PD-008] [PD-009], and this has only partially been made available at D6 [REP6-094] [REP6-030]. The ExA intends to highlight the delay in responding to these matters as the reason, should matters not be agreed between parties before the close of the Examination. Applicant and EWR provide reasons for the delay and proposed way of working to conclude matters.</p> <p>Applicant's response:  <i>"The Applicant has been in ongoing discussions with EWR regarding their request for Protective Provisions and alternative solutions that could be reached. Appreciating that there would be potential merit in future co-operation with EWR in respect of the respective schemes, the Applicant has sought to engage with EWR. However as previously and consistently explained, the Applicant has resisted</i></p>	<p>EWR Co's position in respect of the draft Protective Provisions, additional design principle and amendments to requirement 12 of Schedule 2 to the dDCO is set out in full in [REP8-044] and [REP8-045]. For that reason, it is not repeated here.</p> <p>It is incorrect that there will be no detriment to EWR Co's proposed operation irrespective of whether a cooperation agreement is entered into, or that EWR Co's request for protective provisions is premature or inappropriate. This is because a failure to undertake proper and proportionate joint planning can render the delivery of EWR (or the Scheme for that matter) more expensive or result in greater impacts on the environment (including local communities). Neither is in the public interest.</p> <p>The potential negative impacts of the Scheme on the EWR Project are set out at page 26 of [REP1-074]:</p> <p><i>"Should the Scheme not be delivered in a manner that takes account of the EWR Project, there is a risk that the latter will be rendered more expensive or more difficult to deliver</i></p>

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		<p><i>Protective Provisions including in the form suggested by EWR given the early stage of their proposals and the absence of any clear existing apparatus which ought to be protected through the use of Protective Provisions. Despite Protective Provisions being proposed by EWR from the beginning of the Examination, the Applicant did not receive a copy of the EWR draft Protective Provisions until 15 October 2021 and the associated Interface Agreement on 19 November 2021. Since then, the Applicant has provided comments on the unsuitability of these proposed Protective Provisions at Deadline 6 [REP6-031] and offered an alternative cooperation agreement to be entered into with EWR, a draft of which has been shared with EWR on 12 Jan 2022. The Applicant considers that this cooperation agreement forms a more suitable mechanism through which engagement between the two parties can be managed in relation to the A428 Scheme and the Applicant has sought to prepare a draft and share this with EWR as soon as possible following receipt of EWR's draft Protective Provisions and Interface Agreement. The Applicant remains engaged with EWR and willing to continue negotiations to enter into a co-operation agreement in due course.</i></p> <p><i>However, in the Applicant's view, given the prematurity of the EWR request for Protective Provisions relative to the current status of its project, the ExA can be satisfied that there will be no detriment</i></p>	<p><i>which would also lengthen the programme to delivery. This may adversely affect the achievement of wider transport and economic objectives of the EWR Project."</i></p> <p>Further, the potential and self-evident negative impacts of a lack of coordination between the EWR Project and the Scheme were referred to at Issue Specific Hearing 5, as detailed at page 2 of [REP6-094]:</p> <p><i>"...the potential proximity of the two projects means that if it is possible to avoid increased environmental, community and economic impacts, then this ought to be secured. It is also in the public interest that resources be used appropriately."</i></p> <p>It is clear that the purpose of any cooperation agreement would be both to promote coordination and secure suitable protections for the EWR Project. Therefore, this is a matter that requires resolution if EWR Co is to be in a position to withdraw its objection prior to the close of examination. Such a resolution must be on mutually agreeable terms, not on the Applicant's terms alone - providing sufficient protection for EWR and EWR Co's undertaking, together with sufficient mechanisms to assure proper planning in the public interest.</p> <p>In the interests of seeking such a resolution, EWR Co continues to engage with the Applicant. The parties have agreed the below joint statement for submission at Deadline 9:</p>

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		<p><i>to EWR's proposed operations (which have still to reach a preferred route stage and statutory consultation) irrespective of whether a cooperation agreement is entered into. The cooperation agreement will seek to offer benefits to the parties rather than prevent detriment to EWR. Therefore, whether progress is or is not made on a cooperation agreement before the close of the examination is not material to the Examining Authority's decision on the A428 Scheme. In any event, the Applicant considers that in the circumstances it has not acted to cause any delay; and the fundamental reason for any agreement not being reached is not delay, but rather the attempt by EWR to seek Protective Provisions in the DCO when it is premature and inappropriate to do so."</i></p>	<p><i>"The Applicant and EWR Co continue to engage in productive discussions as to the appropriate protections to be secured in respect of the EWR Project. EWR Co's position remains that protective provisions, the EWR Project design principle and the associated amendments to the dDCO are required until such time as adequate protection has been secured, which differs from the position of the Applicant as set out previously. However, the parties have exchanged drafts of a cooperation agreement which is intended to address EWR Co's position in respect of the Scheme. The terms of the draft agreement are between the parties and are not suitable for submission to the Examination. However, both EWR Co and the Applicant expect to be in a position to provide a substantive update by Deadline 10."</i></p>
2	Applicant's Response to Q3.5.2.2(b) on page 81 of [REP8-014]	<p>b) Applicant, provide any further comments on the draft Protective Provisions proposed by EWR [REP6-094], if this version is different to what you have commented on before [REP6-030]</p> <p>Applicant's Response:  <i>"The Applicant has previously commented upon a version of the draft Protective Provisions which were provided by EWR to the Applicant on 15 October 2021. These comments can be found within the document 'Applicant response to actions arising from Issue Specific Hearing 5', action point 7 [REP6-031] submitted at deadline 6. Also, at Deadline 6, EWR submitted a</i></p>	<p>EWR Co's position as to the requirement for the draft Protective Provisions remains as detailed for each provision in Appendix A to [REP6-094] and as set out in the responses to WQ3 [REP8-044].</p> <p>As detailed at page 11 of [REP8-045], EWR Co accepts that EWR Co is not currently a statutory undertaker. However, this does not preclude the inclusion of the draft Protective Provisions in order to secure joint working and management of interfaces as further information becomes available.</p>

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		<p><i>table setting out its draft Protective Provisions and its justification for their inclusion. There was one discrepancy between the two sets of draft Protective Provisions but this does not impact on the overall and consistent position of the Applicant that these Protective Provisions are not suitable because there is no existing EWR apparatus requiring protection and no section 127 status to consent the erection of any such apparatus and, therefore, EWR cannot be considered an undertaking.</i></p>	<p>The simple fact is that proper planning in the public interest for the two important infrastructure projects does not require all parties involved in that process to have statutory undertaker status. Similarly, there is no legal rule requiring such status or the existence of apparatus for the inclusion of protective provisions - s127 PA 2008 does not govern the inclusion or otherwise of protective provisions, but it is relevant where they are included and apparatus is protected.</p> <p>The key point here is that since a formal mechanism to ensure coordination between the projects does not exist (and it is to be noted that in this examination the Applicant has been slow to acknowledge the advantages of such a mechanism), it is appropriate for the proposed DCO to contain mechanisms or to be accompanied by them, whether as protective provisions, requirements, design codes or side agreements. Equally, protection for the EWR Project could be enshrined in the front end of the proposed DCO or a separate schedule.</p> <p>Furthermore, the draft protective provisions are bespoke to the situation in which the respective projects find themselves. The Applicant is wrong in its submissions to grapple only with status and not to focus on the beneficial effect of the drafting in the public interest.</p>

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3	Applicant's Response to Q3.5.2.2(c) on page 82 of [REP8-014]	<p>c) EWR, you have stated that your proposed Protective Provisions are adapted from those used in previous DCOs in respect of railway undertakings [REP6-094]. Can you list examples of made DCOs where Protective Provisions (that you have used as a model) were secured for a proposed railway scheme in a similar stage of development as your proposed scheme. Applicant may respond.</p> <p>Applicant's Response:  <i>"The Applicant is not aware of any such made DCOs where Protective Provisions have been included for a railway scheme at the same stage as EWR's Scheme. EWR is not an undertaking nor a statutory undertaker for the purposes of the Planning Act 2008, and it is the Applicant's position that EWR's request for Protective Provisions is premature and without any clear rationale or justification. It is noted that EWR were not deemed to meet any of the criteria, set out in sections 102A and 102B of the Planning Act 2008, to have Interested Party status and as such hold the status of 'other person' in the Examination."</i></p>	<p>EWR Co further explained the approach taken to the draft Protective Provisions in its response to WQ3.5.2.2(c) at page 4 of [REP8-044], with reference to the 'traditional' Network Rail protective provisions and the provisions included in the Able Marine Energy Park Development Consent Order 2014. This explanation is not repeated in this response.</p> <p>As set out at items 1 and 2, above, it is incorrect that EWR Co's request for the draft Protective Provisions is premature and without any clear rationale or justification. This is simply to ignore the submissions made.</p> <p>The proposals for the EWR Project and the Scheme being at different stages of evolution and EWR Co not presently being a statutory undertaker do not preclude the inclusion of the draft Protective Provisions in order to secure joint working and management of interfaces.</p> <p>Further, EWR Co has provided a clear rationale and justification for the inclusion of the draft Protective Provisions throughout this Examination, including the provision of a detailed justification for the inclusion of each provision at Appendix A to [REP6-094].</p>
4	Applicant's Response to Q3.5.2.2(d) on page 82 of [REP8-014]	<p>d) EWR, given the early stages of development, how and when would you define the specified work supply in 95(1)?</p> <p>Applicant's Response:  <i>"No comment."</i></p>	<p>EWR Co expects that the Applicant will provide comments in relation to EWR Co's response to Q3.5.2.2(d) at Deadline 9. Should the Applicant disagree with EWR Co's response, an explanation as to what it considers might be workable would be of assistance to both EWR Co and the Examination. As matters stand, the only detailed proposals</p>



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			before the Examination to address these key interfaces in the public interest are those of EWR Co.
5	Applicant's Response to Q3.5.2.2() on page 82 of [REP8-014]	<p>e) Applicant and EWR, can 95(3) be delivered within the provisions of the current draft of the dDCO [REP6-003]?</p> <p>Applicant's Response:  <i>"The Applicant considers that provisions contained within paragraph 95(3) would be best placed within any Order to be made for the EWR Scheme and, for the reasons stated within [REP6-031], is not suitable for inclusion within the A428 dDCO."</i></p>	<p>EWR Co's response to WQ3.5.2.2(e) is set out at page 5 of [REP8-044]. It is not repeated here.</p> <p>Paragraph 95(3) of the draft Protective Provisions and the associated amendment to article 11(5) of the dDCO provide for the transfer of the benefit of the DCO without requiring the consent of the Secretary of State. It is entirely appropriate that this mechanism be secured in the DCO for the Scheme, rather than in the DCO for the EWR Project. This is important since it enables passive provision to be made for EWR and early works rather than relying upon EWR Co's own DCO for retrospective amendments.</p>
6	Applicant's Response to Q3.5.2.2(f) on page 82 of [REP8-014]	<p>f) EWR, notwithstanding the provision in 95(5), how can the ExA secure in the dDCO adaptation and integration of approved work without any details before it, or understanding the associated environmental effects?</p> <p>Applicant's Response:  <i>"No comment."</i></p>	<p>EWR Co expects that the Applicant will provide comments in relation to EWR Co's response to Q3.5.2.2(f) at Deadline 9. Should the Applicant disagree with EWR Co's response, an explanation as to what it considers might be workable would be of assistance to both EWR Co and the Examination. As matters stand, the only detailed proposals before the Examination to address these key interfaces in the public interest are those of EWR Co.</p>
7	Applicant's Response to Q3.5.2.2(g) on page 82 of [REP8-014]	<p>g) Applicant does your position stated at CAH2 [REP6-032] that you would not be providing a revised wording to the Protective Provisions for the</p>	<p>It is incorrect that the inclusion of the draft Protective Provisions is inappropriate. The proposals for the EWR Project and the Scheme being at different stages of evolution does not preclude the inclusion of the draft</p>

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		<p>negotiations, still stand? If not, provide your proposed amendments.</p> <p>Applicant's Response:  <i>"The Applicant considers the inclusion of Protective Provisions for the EWR Scheme, which is neither consented nor in existence, to be entirely inappropriate as a general principle. Therefore, the Applicant maintains the position stated at CAH2 that it will not be providing revised wording to the EWR proposed Protective Provisions."</i></p>	<p>Protective Provisions in order to secure joint working and management of interfaces.</p> <p>It is most unhelpful to the Examination and to EWR Co for the Applicant not to engage with this question. EWR Co would prefer that in case the ExA recommends the inclusion of protective provisions (as EWR Co continues to state for the time being and until a satisfactory alternative approach is secured), the Applicant should have set out what it considers might be workable or to engage with the detail of EWR Co's drafting. As matters stand, the only detailed proposals to address these key interfaces in the public interest are those of EWR Co. EWR Co respectfully suggests that the ExA again asks this question of the Applicant.</p> <p>EWR Co's position in respect of the draft Protective Provisions is set out in full in [REP8-044] and [REP8-045]. For that reason, it is not repeated here.</p>
8	Applicant's Response to Q3.5.2.2(h) on page 82 of [REP8-014]	<p>h) Applicant, the ExA can see some merit in the arguments you have presented in response to the EWR's proposed draft Protective Provisions; however, the ExA considers that your counter proposal, [REP6-094], would not provide adequate protection for the EWR scheme in the dDCO. Consider the protections sought in the Protective Provisions and provide a suitably worded draft Cooperation Agreement that may provide similar protections, for EWR to consider. This may be shared between parties in advance of D8,</p>	<p>EWR Co has provided a clear rationale and justification for the inclusion of the draft Protective Provisions throughout this Examination, including the provision of a detailed justification for the inclusion of each provision at Appendix A to [REP6-094].</p> <p>Further, as set out at item 1, above, EWR Co has detailed the potential negative impacts on both the EWR Project and the Scheme. As such, securing joint working and management of interfaces between the EWR Project and the Scheme is clearly a material consideration. As such,</p>

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		<p>and the ExA would welcome EWR's response to proposed draft, alongside at 08.</p> <p>(See related questions in Significant Cumulative Effects.)</p> <p>Applicant's Response:  <i>"The Applicant does not consider that protection is required to be secured for EWR under the DCO. EWR have not presented any detailed or specific evidence to suggest that the Scheme would prejudice their ability to deliver the EWR Scheme, and indeed has not yet made a Preferred Route Announcement to confirm what route the EWR Scheme will take. Accordingly, the cooperation agreement is not a material consideration for the ExA in determining whether to grant development consent; it is a mechanism through which the Applicant and EWR will manage any potential interaction between the two schemes in the future, acknowledging the advanced stage of the Scheme by comparison to the EWR Scheme.</i></p> <p><i>A draft cooperation agreement has been shared with EWR and the Applicant considers that it is not necessary for this to be submitted to the Examination, because whether progress [progress] is or is not made on this cooperation [cooperation] agreement before the close of the examination is not material to the Examining Authority's decision on the A428 Scheme."</i></p>	<p>whether protective provisions or other mechanisms ensure appropriate joint working in the public interest and to protect the environment are material considerations. The absence of a means to enhance certainty for delivery of both schemes and the potential harm to delivery of EWR is such a material (important and relevant) consideration.</p> <p>For this reason, as detailed in the joint statement at item 1, EWR Co will continue to engage with the Applicant as to the appropriate protections to be secured in respect of the EWR Project.</p>

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<b>EWR Co's comment on Applicant's response to Q3.10.1: Design Development Process</b>			
9	Applicant's Response to Q3.10.2.1(a) on page 91 of [REP8-014]	<p>Question: Design development process</p> <p>a) It is the ExA's understanding that you have scoped out further consultation with parties on the Scheme Design Approach and Design Principles document after this Examination. Confirm if this position still stands.</p> <p>Applicant's Response <i>"(a) The Applicant confirms that no further formal consultation with parties on the Scheme Design Approach and Design Principles [TR010044/EXAM/9.26v2], document is proposed to be undertaken after this Examination. The Applicant has demonstrated how comments made by interested parties have been considered in the development of the Scheme Design Approach and Design Principles document [TR010044/EXAM/9.26v2], submitted at Deadline 8. Please refer to the following to show how the comments received from other parties at Deadline 6 have been considered:</i></p> <p><i>a. Appendix B of the Applicant's comments on submissions made at Deadline 6 [TR010044/EXAM/9.93] which sets out how comments from the Cambridgeshire Authorities have been considered.</i></p>	<p>As detailed in EWR Co's responses to Q2.10.1.1(b) [REP4-067] and Q3.6.3.1(b) [REP8-044], it is necessary and appropriate to include a design principle to require the consideration at detailed design of the opportunities to integrate the Scheme and the EWR Project, both in terms of design changes to allow for engineering efficiencies and the coordination of construction programmes.</p> <p>The Scheme Design Approach and Design Principles document [REP8-007] does not include the design principle proposed by EWR Co in [REP4-067]. Further, it is not clear how EWR Co's comments have been taken into account in preparing [REP8-007].</p> <p>EWR Co's position remains that requirement 12 must be amended to secure consultation in respect of the design development process and the design principle proposed by EWR Co in [REP4-067] must be included in [REP8-007].</p>

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		<p><i>b. Table 2-1 in the Applicant's comments on submissions made at Deadline 6 by Camcycle [REP6-077] [TR010044/EXAM/9.104] which sets out how comments from Camcycle have been considered.</i></p>	
10	Applicant's Response to Q3.10.2.1(b) on page 92 of [REP8-014]	<p>Question: Design development process (b) If so, describe the scope and purpose of the 'detailed design stage' and the engagement expected with parties during 'detailed design stage'. Should this be described in the Design Approach and Design Principles document?</p> <p>Applicant's Response:</p> <p><i>"(b) The 'detailed design stage' within National Highways is referred to as Construction Preparation (Project Control Framework Stage 5), which better reflects the scope and nature of the intended design development scope. The focus is placed on developing the information required to enable the planning and commencement of construction.</i></p> <p><i>As set out in the Scheme Design Approach and Design Principles [TR010044/EXAM/9.26v2], engagement during the 'detailed design stage' will be predominantly used to communicate progress with key stakeholders including Local Authorities and Statutory Environmental Bodies. Engagement will also include</i></p>	<p>As detailed at item 10, above, the Scheme Design Approach and Design Principles document [REP8-007] does not include the design principle proposed by EWR Co in [REP4-067]. Further, the scope of the stakeholders to be engaged during detailed design is not clear from section 5 of [REP8-007] or the Applicant's response to Q3.10.2.1(b).</p> <p>Therefore, EWR Co's position remains that requirement 12 must be amended to secure consultation in respect of the design development process and the design principle proposed by EWR Co in [REP4-067] must be included in [REP8-007].</p>

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		<p><i>regular meetings (monthly/quarterly) with these stakeholders to provide updates and an opportunity to raise questions around key topics. The detailed design will also be presented through Public Information Exhibitions to provide visibility to the solution being delivered.</i></p> <p><i>Legal Agreements with Local Authorities are being prepared to define any specific requirements for key topics, such as asset handover and the application of standards for the design of new local roads.”</i></p>	
<p><b>EWR Co’s comment on Applicant’s response to Q3.11.6.1: Providing opportunities for NMUs</b></p>			
11	Applicant’s Response to Q3.11.6.1(b) Barford Road Bridge on page 109 of [REP8-014]	<p>b) Barford Road bridge</p> <p>At ISH5 [EV-070) the Applicant explained that any future aspirations of CBC for the provision of NMU infrastructure at or near the proposed Barford Road bridge could be dealt with by either a bolt-on structure to that intended as part of the Proposed Development or the creation of a separate crossing facility. The ExA is unaware of such a design having been considered previously by the Applicant, particularly in terms of visual impact or the suitability of the proposed road bridge to accommodate such a bolt-on structure. As such, should the intended bridge not provide a crossing</p>	<p>Prior to the submission of an application for a development consent order, EWR Co will assess the impact of the EWR Project on non-motorised users (NMUs). While the design of the EWR Project continues to be developed, it is expected that this will consider the available options to support sustainable modes of transport to facilitate customer journeys to and from the station, as part of the first or last part of their rail journey.</p>

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		<p>with sufficient deck space to retrofit NMU facilities within its footprint in future?</p> <p>Applicant's Response:</p> <p><i>"The existing Barford Road has been in its current form for at least the last 75 years with no off-carriageway provision and the Applicant is of the view that the request for passive provision across the structure is to facilitate access to a potential station location for the East West Rail development. The East West Rail development is still at an early stage of development [early stage of development] with the route and station locations still to be announced. Inclusion of this provision at the expense to the public purse should not be seen to influence or pre-judge such decisions and in addition could provide a piece of infrastructure that is ultimately not needed and therefore redundant. The Applicant is willing to engage with the relevant parties when more certainty of the East West Rail scheme and the associated NMU routes are known, as demonstrated through the Applicant's offer to enter into a co-operation agreement with East West Rail (see the Applicant's response to Q3.5.2.2). However, any increase in provision to accommodate the EWR development would need to be funded and consulted upon by EWR.</i></p> <p><i>The Applicant has not considered passive provision (including a 'bolt-on') for an NMU route across the</i></p>	

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		<p><i>proposed Barford Road structure. The Applicant would recommend that, if funding by EWR or CBC for the proposed passive provision is not available, then a separate structure should be provided rather than a 'bolt-on'. The Applicant does not consider it appropriate to design this additional structure as it is not required for the Scheme and is sought to make provision for an undefined, unconfirmed demand driven by a separate scheme and/or LA ambition. It would be for the local authority or the developer to design and assess this separate structure. Furthermore, it would be for the developer to address any Landscape &amp; Visual Impact Assessment (LVIA) impacts of any proposed crossing."</i></p>	
<b>EWR Co's comment on Applicant's response to Q3.14.3.1: East West Rail</b>			
12	Applicant's Response to Q3.17.4.1 on page 143 of [REP8-014]	<p>East West Rail Company Limited/Applicant</p> <p>At ISH5 [EV-070] EWR explained that potential design changes to the Proposed Development would largely be limited to LHA side roads linking to the Proposed Development. However, EWR state in the post hearing note [REP6-094] that the exception to this would likely be at Black Cat Roundabout. Explain how the EWR Route Alignments 1, 2 and 6 would likely affect the</p>	<p>As stated in EWR Co's response to Q3.17.4.1 at page 8 of [REP8-044], EWR Co and the Applicant had agreed a joint response to Q3.17.4.1. While the Applicant's response includes elements of the joint response, this has been expanded such that a further response is required.</p> <p>For the reasons set out at items 1, 2 and 3, above, EWR Co's position remains that:</p>



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		<p>intended layout or function of the proposed Black Cat junction. (See related questions in Protective Provisions.)”</p> <p>Applicant’s Response:  <i>“East West Rail Co (EWR) has provided the following details in section 3.3 of Appendix 1 in their - Responses to the ExA’s Second Written Questions (WQ2) [REP4-067], regarding the potential interaction of their Route Alignments 1, 2 and 6 with the Black Cat Junction.”</i></p> <p><i>“The Route Alignments 1, 2 &amp; 6 cross to the north of the proposed Black Cat junction circulatory carriageway. At this point the A1 passes under the junction and is therefore at a lower level to the junction circulatory and adjacent slip roads. The proposals for the Black Cat junction include for retaining walls on either side of the A1 cutting plus a Bentonite cut-off wall set back behind each of the east and west retaining walls.</i></p> <p><i>For EWR Route Alignments 1, 2 and 6, the EWR alignment would cross the Black Cat junction on a viaduct just to the north of the Black Cat Junction, over the slip roads and the A1. Therefore, the present design for EWR Route Alignments 1, 2 and 6 is not expected to alter the main layout or function of the A428 Black Cat Roundabout and its slip roads in the permanent case. However, EWR consider that “temporary changes to the layout or function of the junction may be necessary</i></p>	<ul style="list-style-type: none"> <li>i. the potential negative impacts of a lack of coordination between the EWR Project and the Scheme have been clearly set out in EWR Co’s oral and written submissions to the Examination, including in [REP1-074] and [REP6-094];</li> <li>ii. the proposals for the EWR Project and the Scheme being at different stages of evolution does not preclude the inclusion of protections to secure joint working and the management of interfaces;</li> <li>iii. the amendment to article 11(5) and the draft Protective Provisions are required to secure reasonable and proportionate provision for the accommodation of the EWR Project to ensure the proper management of key interfaces, the efficient delivery of both projects and the minimisation of environmental impacts and impacts on the public purse;</li> <li>iv. requirement 12 must be amended to secure consultation in respect of the design development process; and</li> <li>v. the design principle proposed by EWR Co in [REP4-067] must be included in the scheme design approach and design principles document [REP8-007].</li> </ul>

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		<p><i>to facilitate access to and construction of the EWR viaduct. These could include lane closures, diversions and the construction of temporary and permanent structures alongside the highway. In addition, there may be a requirement for the slight realignment of local road infrastructure, such as the Roxton Road access road.”</i></p> <p><i>However, it should be noted that this would not affect the substance of the A428 Scheme and equally does not affect the Applicant's previous representations on the extent to which EWR can properly be considered as part of the assessment and examination of the A428 Scheme. As is stated in the Applicant's response to question 3.5.2.2, EWR have not presented any detailed or specific evidence to suggest that the Scheme would prejudice their ability to deliver the EWR Scheme, and indeed has not yet made a Preferred Route Announcement to confirm what route the EWR Scheme will take.”</i></p>	