

# A428 Black Cat to Caxton Gibbet improvements

TR010044

Volume 9

9.111 Applicant's comments on the submissions made at  
Deadline 7

Planning Act 2008

Rule 8(1)(k)

Infrastructure Planning (Examination Procedure) Rules  
2010

January 2022

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning (Examination Procedure)  
Rules 2010**

**A428 Black Cat to Caxton Gibbet  
improvements  
Development Consent Order 202[ ]**

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**9.111 Applicant's comments on the submissions made at Deadline 7**

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<b>CONFIDENTIAL – Appendix A contains personal and sensitive information and is not to be published</b>	

# 1 Introduction

- 1.1.1 The Development Consent Order (DCO) application for the A428 Black Cat to Caxton Gibbet improvements scheme (the Scheme) was submitted by National Highways (the Applicant) to the Secretary of State for Transport via the Planning Inspectorate on 26 February 2021 and accepted for Examination on 23 March 2021.
- 1.1.2 The purpose of this document is to set out the Applicant's comments on submissions made at Deadline 7 of the Examination. It should be noted that some of the information that has been submitted comprises personal and confidential information, therefore the Applicant would request the appropriate parts of this document are redacted prior to it being published on the Planning Inspectorate website.
- 1.1.3 The following submissions are addressed in this document:
- a. REP7-004 – Bedford Borough Council
  - b. REP7-005 – Bedford Borough Council
  - c. REP7-006 – Davison & Company (Great Barford) Ltd
  - d. REP7-007 – Bletsoes on behalf of Diane Sharman
  - e. REP7-008 – Bletsoes on behalf of John Lammie
  - f. REP7-009 – Julian Braidwood
  - g. REP7-010 – Julian Braidwood
  - h. REP7-011 – Mr and Mrs Chamberlain
  - i. REP7-012 – Mr and Mrs Chamberlain
  - j. REP7-013 – Mr Ron Baron

## 2 Applicant's comments on submissions made at Deadline 7

### REP7-004 – Bedford Borough Council

- 2.1.1 The Applicant has no comments on **[REP7-004]** submitted at Deadline 7 by Bedford Borough Council.
- 2.1.2 The Applicant can confirm that the items in the contact log set out in **[REP7-004]** which refer to National Highways are accurate.

### REP7-005 – Bedford Borough Council

- 2.1.3 The Applicant has no comments on **[REP7-005]** submitted at Deadline 7 by Bedford Borough Council.

### REP7-006 – Town Legal LLP on behalf of Davison and Co

- 2.1.4 The Applicant has provided comments on **[REP7-006]** in the table below.

### REP7-007 – Bletsoes on behalf of Diane Sharman

- 2.1.5 The Applicant has provided comments on **[REP7-007]** in the table below.

### REP7-008 – Bletsoes on behalf of John Lammie

- 2.1.6 The Applicant has provided comments on **[REP-008]** in the table below.

### REP7-009 – Julian Braidwood

- 2.1.7 The Applicant has no comments on **[REP7-009]**, submitted at Deadline 7 by Julian Braidwood.

### REP7-010 – Julian Braidwood

- 2.1.8 The Applicant has no comments on **[REP7-010]** made at Deadline 7 by Julian Braidwood.
- 2.1.9 The Applicant can confirm that the correspondence between the Applicant and Mr Braidwood as referred to in **[REF7-010]** is accurate. Mr Braidwood included some correspondence which the Applicant erroneously omitted from its submission and which is now included at Appendix A to this document.

### REP7-011 – Mr and Mrs Chamberlain

- 2.1.10 The Applicant has no comments on **[REP7-011]** submitted at Deadline 7 by Mr and Mrs Chamberlain.

## REP7-012 – Mr and Mrs Chamberlain

- 2.1.11 The Applicant has the following comments in relation to **[REP7-012]**:
- 2.1.12 **Comparable Evidence:** The Applicant notes that in accordance with Section 106(1)(c) of the Planning Act 2008 matters of compensation are not matters for consideration by the Examining Authority, but considers below the principles of comparables in calculating the value of Mr and Mrs Chamberlain's property so that the Examining Authority can be confident that the Applicant has acted reasonably in its approach to the negotiations.
- 2.1.13 The comparable properties used by the Applicant in order to inform its approach to valuation are the best available evidence that the Applicant is aware of (including in respect of flats, yields and rentals). All property is unique and has advantages and disadvantages compared to other properties, such as: location, size, age, condition, or any other factor that might affect value.
- 2.1.14 In arriving at its opinion of value the Applicant has sought transactional evidence in a reasonable proximity to the subject property and made appropriate adjustments and analysed them in line with the RICS Guidance Note: Comparable evidence in real estate valuation 1st edition, October 2019.
- 2.1.15 Adjustments have been made to the comparables to account for differences that are value significant, for example, but not limited to: location, age, condition, covenant strength, transaction date/market movement, etc.
- 2.1.16 The Applicant has not received any response to its communications to Mr and Mrs Chamberlain since Mr and Mrs Chamberlain requested the provision of comparable evidence, but the Applicant would be very willing to explain these to Mr and Mrs Chamberlain.
- 2.1.17 The Applicant has also invited Mr and Mrs Chamberlain to provide any comparable evidence they would like the Applicant to take into consideration in valuing the property. Two transactions were referred to in the meeting on 26 August 2021 by Mr and Mrs Chamberlain, however, specific details were not provided to the Applicant.
- 2.1.18 The Applicant has sought to locate the details of these two sales, and has provided details to Mr and Mrs Chamberlain that it believes may be the transactions referred to by them.
- 2.1.19 The Applicant has asked Mr and Mrs Chamberlain to confirm whether the details provided relate to the transactions they cited as comparables in the meeting on 26 August 2021. The Applicant is still awaiting confirmation from Mr and Mrs Chamberlain on this matter to enable discussions to progress.
- 2.1.20 **Provision of Skip and Labourer:** The Applicant has sought to assist Mr and Mrs Chamberlain to clear their site through the provision of skips and a labourer and has offered to pay reasonable costs for this. As a publicly funded body National Highways has a duty to manage the spend of Scheme funds. The Applicant has sought to fulfil this duty by seeking to agree the scope and costs for sorting the materials prior to this work being commenced. This approach allows for a clear procurement exercise to be undertaken and helps prevent Mr and Mrs

Chamberlain becoming liable for costs beyond those which the Applicant is prepared to meet. Likewise under the Compensation Code Mr and Mrs Chamberlain are under a duty to mitigate any claim by taking reasonable steps to ensure any costs incurred are competitive and in line with market rates in the area.

- 2.1.21 **Counter Offer:** At the meeting on 26 August 2021 the Applicant invited Mr and Mrs Chamberlain to make a counter offer. However, Mr and Mrs Chamberlain explained that they did not want to make a counter offer until they had received professional advice. At that same meeting details were provided by the Applicant of RICS Registered firms listed on the RICS website with Compulsory Purchase experience who Mr and Mrs Chamberlain could contact to request representation. The Applicant has contacted Mr and Mrs Chamberlain on several occasions as set out in the Applicant's response to the request for further information from the Examining Authority – Rule 8(3) and Rule 17 Letter [PD-011] [REP7-002] to enquire as to whether an agent had been instructed. The Applicant is still awaiting a response.
- 2.1.22 **Second tenant:** The Applicant sought confirmation of the contact details for the second tenant from Mr and Mrs Chamberlain, however this was not provided. However, following further investigations the Applicant has now made contact with the second tenant identified in [REP7-012] as Mr Goodwin. A letter was posted to him on 20 January 2022 to explain his rights to register as an interested party and take part in the examination. The Book of Reference, to be submitted at Deadline 10, will be updated to include Mr Goodwin's full details. The Applicant spoke with Mr Goodwin on 25 January 2022 to confirm that the letter had been received and offer assistance to understand the process and the letter contents. Mr Goodwin confirmed he had not yet read the letter but would do so in the coming days.
- 2.1.23 **Financial Support:** The Applicant has confirmed on multiple occasions to Mr and Mrs Chamberlain that it will pay reasonable fees for professional representation. This is evidenced in the record of correspondence in [REP7-002], see REF-004, REF-016, REF-019, REF-021, REF-021, REF-041, REF-047, REF-061, REF-067, REF-089, REF-092, REF-094 and REF-095 in Appendix A of [REP7-002]. In particular note the letter to Mr and Mrs Chamberlain dated 12 August 2021 and the minutes from the meeting of 26 August 2021, which the Applicant erroneously omitted from its submission and which is now included at Appendix A to this document.

### REP7-013 – Mr Ron Baron

- 2.1.24 The Applicant notes the comment on the third page of the response from Mr Baron which sets out that *"I find it disconcerting to say the least, that Mr Baron has had visits from various organisations concerning the historical state, condition and the future of Brook Cottages, but no one has visited Mr Baron regarding his needs as the incumbent."* As set out in [REP7-003] at a meeting held on 17 November 2020, the Applicant was informed by the owner that Mr Baron should not be contacted directly [REDACTED], see REF-034 in Appendix A of [REP7-003]. The Applicant sought to respect the

wishes of the owner, and therefore did not continue direct discussions with Mr Baron. It should also be noted that Bedford Borough Council visited Mr Baron on 1 February 2021, as set out in **[REP7-005]** to provide assistance in filling out the forms to register for the housing list.



**REP7-006 – Davison & Company (Great Barford) Ltd**

Reference Number	Interested Parties Submission/Applicant's Comments
	<p><b>1. Introduction</b></p> <p>1.1 We are instructed by Davison &amp; Company (Great Barford) Limited.</p> <p>1.2 We refer to the written and oral representations made in the dDCO Examination process by our client as regards the alleged compelling case in the public interest justification put forward by National Highways ('Applicant') for the proposed compulsory acquisition of land belonging to Davison &amp; Co in the dDCO in respect of Plot 14/16a.</p> <p>1.3 We wish to draw a specific matter to the attention of the Examining Authority and respectfully request that they accept, in their discretion, this additional written submission on behalf of our client which should be read together with and alongside the oral and written representations made on its behalf by its surveyors Carter Jonas.</p> <p><b>2. Consideration</b></p> <p>2.1 In summary, the Applicant has sought to justify the compulsory acquisition of a significant part of Plot 14/16a for the purposes of borrow pits to extract sub-soil for use in construction of the proposed DCO scheme.</p> <p>2.2 We note, however, that in the Applicant's Statement of Reasons, which is required to set out the Applicant's justification in the public interest for the proposed compulsory acquisition, that no mention is made whatsoever of the purposes of the proposed compulsory purchase of plot 14/16a being for the purposes of borrow pits and/or, any proposed extraction of materials from the land.</p> <p>2.3 Indeed, on the contrary, in relation to 'Work no.111' (which we understand corresponds to the area of land identified by the Applicant for the proposed borrow pits) is misleadingly and inaccurately referred to in the Statement of Works as simply a proposed 'Site Compound Area'.</p> <p>2.4 The Applicant has clearly not demonstrated, whether in the dDCO and/or in the Statement of Reasons, that compulsory acquisition of Plot 14/16a is necessary in the public interest for the specific borrow pits purposes. In addition, the Applicant has failed to specify over which specific part of Plot 14/16a the borrow pits are proposed to be situated which makes considering the likely significant implications of the proposed compulsory acquisition of this land extremely difficult if not impossible for our client to assess. Moreover, there is no attempt by the Applicant to provide any explanation as to why it is not possible to use the more proportionate and less draconian temporary possession powers over Plot 14/16a for the purposes of the proposed borrow pits. In this regard, it matters not, contrary to the assertions of</p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>the Applicant, that the land may be materially changed by the proposed borrow pits, when other land in the dDCO is proposed to be materially changed by permanent works following temporary possession and this is no barrier in these cases to pursuing temporary possession powers. The same considerations should apply to our client.</p> <p><b>3. Conclusion</b></p> <p>3.1 Accordingly, for the reasons summarised above and particularised in more detail in our client's written representations and oral representations at CAH 1 and CAH 2, we consider that the Applicant has not satisfied the preconditions of section 122 of the Planning Act 2008 for compulsory purchase powers in respect of Plot 14/16a to be authorised</p> <p>3.2 We would ask that this letter please be placed before the Examining Authority at its earliest possible convenience. 3.3 We are happy to supplement and add to this letter as necessary and as may required by the Examining Authority</p> <p>3.4 A copy of this proposed additional submission has been shared with the Applicant.</p>
Applicant's comments	<p>The Applicant notes that the Works No. associated with plot 14/16a, include Work No. 111 which in accordance with the dDCO allows for the borrow pit activities. The Applicant as part of Deadline 10 is updating the Statement of Reasons to reflect the updated Lands Plans <b>[REP4-002]</b> submitted at Deadline 4 and will address this issue accordingly by amending 'site compound' to 'construction'. The Land Plans were last updated at Deadline 4 and the Applicant split plot 14/16a into two plots (now 14/16a and 14/16c) to differentiate between the extent of works required for the highway and the borrow pit land. This change was also to assist the ongoing lease negotiation discussions and to define the borrow pit area more clearly.</p> <p>As per the Applicant's response to the Examining Authority's Second Round of Written Questions, Q2.6.2.1 in <b>[REP4-037]</b>; the Applicant has used permanent acquisition to manage landowner expectations regarding the quality of the land once returned. The Applicant is confident that plot 14/16a is needed to facilitate or is incidental to the project in accordance with section 122 of the Planning Act 2008. However, in addition, the Applicant is seeking to reach voluntary agreement with the landowner to allow for further flexibility and is exploring the possibility of reaching an agreement to use this land under a short term private lease arrangement (without the constraints of the same restoration provisions as appear in the draft DCO), subject to it being a suitable alternative and providing the Applicant with the rights necessary to carry out the works.</p>

**REP7-007 – Bletsoes on behalf of Diane Sharman**

Reference Number	Interested Parties Submission/Applicant's Comments
	<p><b><u>A428 Blackcat to Caxton Gibbet Project – Additional Representation</u></b></p> <p>We represent the interests of Mrs Diane Sharman, and the Partners of the farming partnership, H G Sharman &amp; Son, of Coxfield Farm, Colmworth, who are directly affected by the Scheme; the current partners are Diane Sharman, Robert Sharman, Cathryn Sharman and Rebecca Sharman. Mrs Diane Sharman owns land directly affected by the Scheme, which is farmed by the partnership. In addition, the partnership is tenant of several parcels of land directly affected by the Scheme.</p> <p>Following a recent meeting with National Highways and their representatives on 8th December 2021, it has become apparent there are significant unresolved issues that we believe need to be brought to the attention of the Examining Authority and we are now writing to do so.</p> <p>By way of background information, my clients have engaged with National Highways from outset of the Scheme, including (but not limited to):</p> <ul style="list-style-type: none"> <li>• Representations to supplementary consultation held in July 2020</li> <li>• Relevant Representation(s) <b>(RR-028/RR-043)</b></li> <li>• Written Representation <b>(REP1-083)</b> In summary, our concerns are:</li> </ul> <p><u>Accommodation Works</u></p> <p>From the outset of the Scheme and in all of the representations set out above, we have reiterated the need for Accommodation Works and have requested detailed designs of the proposed Accommodation Works, so we are able to ascertain the full impact on our clients' 'requisite interest', because we do not wish to be put in a position whereby when it comes to the 'detailed design', we are told by National Highways or their Contractor(s) that design issues raised should have been dealt with earlier on in the process and it is too late to adjust design details. Despite this, National Highways' position (as set out in <b>RR-043d</b>) is that Accommodation Works will be finalised at 'detailed design'. Our concerns with this approach were realised during the abovementioned meeting with National Highways and their representatives, during which we were told that it may be too late in the DCO process to make provision for an access, despite having raised the need for an access in July 2020 i.e., before the application had been submitted to the Planning Inspectorate; further detail on this specific issue is set out later in this letter. We feel that the issue of Accommodation Works requires closer scrutiny by the</p>

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	<p>Examining Authority. To allay our concerns and resolve the issue, we require a legally binding commitment from National Highways in respect of Accommodation Works.</p> <p><u>Land East of Roxton Road &amp; North of A421</u></p> <p>Within National Highways' response to RR-043a, they state "the applicant confirms that the existing access off Roxton Road, north of the A421 and the proposed Roxton Road roundabout, for access to land to the east, will be retained as part of the scheme". We relied upon this statement and did see the need for further representations. However, during the aforementioned meeting, a representative from Skanska, the 'Principal Contractor' commented that it was not possible to give this assurance until 'detailed design' is completed, i.e., after the examination period, meaning there is a risk that National Highways will be forced to renege on this commitment. To allay our concerns and resolve the issue, we require a legally binding commitment from National Highways that this access will be retained as part of the Scheme and remain as commodious as it was before the Scheme.</p> <p><u>Land South-East of Roxton Garden Centre</u></p> <p>From the outset and within all the representations set out above, we have highlighted the perceived short-term development potential of this land and the linked 'hope' or development value over and above its agricultural value. Clearly, the cost of acquisition will be increased and the cost to the taxpayer will be greater. Consequently, within the representations contained above, we requested for the Kelpie Marina access road/track to be aligned closer to the A1. During a meeting held in August 2021, National Highways agreed to consider whether the alignment could be altered, which was an improvement on their previous position set out within their response to RR-043b, in which they said "it has been determined not possible to realign the proposed access road further to the east". Despite their agreement to consider the matter, we did not receive a response until the meeting held earlier this month, during which they said it was not possible to alter the alignment due to "technical reasons". Those technical reasons have not been shared with us, but National Highways have committed to do so in late December 2021 / early January 2022. Our concern is National Highways have assumed that the cost of compulsorily acquiring more of my client's requisite interest will be more cost effective than altering the alignment of the gas main they are seeking to avoid with their current proposed alignment of the Kelpie Marina access road/track. A National Highways' representative stated that "cost is not a consideration". Putting aside whether National Highways are correct in saying that, we ask you to consider whether National Highways have a duty to deliver the publicly funded project as cost effectively as possible, and if so, whether National Highways should be reconsidering their approach to the Kelpie Marina access road/track. In the meantime, this matter remains unresolved.</p>

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	<p>We have highlighted the perceived short-term development potential of this land and the linked 'hope' or development value over and above its agricultural value. Clearly, the cost of acquisition will be increased and the cost to the taxpayer will be greater. Consequently, within the representations contained above, we requested for the flood storage area to be relocated to land where the likelihood of development is remote. During the meeting held in August 2021, National Highways agreed to consider whether the flood storage area could be relocated, which was an improvement on their previous position set out within their response to RR-043b, which implied that relocation would not be possible due to technical reasons. Despite their agreement to consider the matter, we did not receive a response until the meeting held earlier this month, during which they said it was not possible to relocate the flood storage area due to "technical reasons". Those technical reasons have not been shared with us, but National Highways have committed to do so in late December 2021 / early January 2021. We await this information. In the meantime, this matter remains unresolved and we maintain that the flood storage area could be located elsewhere along the Rockham Brook, where the likelihood of development is remote.</p> <p>Within representation REP1-083, we stated our preference to retain the freehold ownership of the flood storage area, if it could not be relocated and subject to knowing what rights/restrictions may be involved, but we have not had a response in respect of the same. This issue remains outstanding.</p> <p>From the outset and within the representations set out above, we highlighted the need for a separate legal access to the land owned by my client, distinct from the land they rent. During the meeting held in August 201, a representative of National Highways agreed that designs would be amended to make provision for this access. This statement was relied upon and no further representations were made. However, during the meeting held earlier this month, it transpired that provision has not been made for access and National Highways' representatives feared it may be too late in the examination process to amend the DCO. National Highways have agreed to investigate the matter and provide an update in respect of this matter by 22<sup>nd</sup> December 2021. In the meantime, we ask that you investigate this further and consider what action is necessary. To allay our concerns and resolve the issue, we require a legally binding commitment from National Highways to provide a private access to my client's land and to my clients' satisfaction.</p> <p><u>Summary</u></p> <p>In summary, we feel that despite my client's engagement from the outset, National Highways have done very little to resolve their concerns. My clients have relied upon assurances given by National Highways, but these assurances have not been fulfilled. We feel that it is important for you to be aware of the issues outlined in this letter, as we fear that if you are not aware of the issues, then you will assume that none exist.</p> <p>We look forward to discussing the matter with you at the next opportunity.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	<p>The Applicant informed the Land Agent that the detailed design period would run throughout 2022 at a meeting held on 8 December 2021, and it is standard practice for the detailed design to be refined and agreed after the close of the DCO examination.</p> <p>With regards to a legally binding document, the Applicant has issued a private position statement outlining the matters currently under discussion with the landowner. The purpose of this document is to identify areas in which matters have been agreed, to then be used as a basis for entering into a legally binding agreement between the parties. The Applicant contacted the landowner's agent on 20 January 2022 to request confirmation of whether their client was interested in entering into an Option Agreement. Discussions are set out more fully in the Compulsory Acquisition Schedule <b>[REP8-005]</b>.</p> <p>Discussions in relation to the 'Land East of Roxton Road &amp; North of A421' have taken place in the past as part of the preliminary design process, however the specific requirements need to be assessed again in further detail as part of the detailed design. As mentioned in the meeting held on 8 December 2021, the Applicant anticipates confirmation of this detail in Spring 2022. Where the Applicant is unable to retain existing private access points, equivalent alternative access will be provided.</p> <p>With no development proposal in place or included within the approved Bedford Borough Council Local Plan, the Scheme is not able to take into account, to any additional degree, the landowner's aspirations to develop the land.</p> <p>The access road to Kelpie Marina was designed to make the bridge crossing the A1 as perpendicular as reasonably possible and to avoid diverting the high-pressure gas main. Making the bridge crossing more perpendicular to the A1 reduces the length of the bridge and creates more space on the east side of the crossing within Kelpie Marina for the earthworks ramp required from the bridge down to the marina itself. Space is also created for a new flood storage area between the Kelpie Marina access and the A1 northbound carriageway. This flood compensation area is required to mitigate the impact of the new A1 northbound off-slip road on the Rockham Ditch flood plain. Even if the Kelpie Access road were moved eastwards, the actual area of land required would be the same or very similar as currently included within the Order Limits because of the need to provide landscape planting and screening to the new A1 northbound off-slip road.</p> <p>The flood compensation area to the west of the Kelpie access road is required because the road crosses the Rockham Ditch and reduces the area and volume of flood plain available for flood water. If it were not provided then flooding would occur elsewhere and National Highways are obliged by way of, for example, the Flood and Water Management Act 2010 and the National Policy Statement for National Networks, to minimise the impact of the Scheme on flooding. The size of the flood compensation area has been determined by modelling and its location must be as close as possible to the location where the loss of flood plain occurs and upstream of the new culvert conveying Rockham Ditch under the Kelpie access</p>

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	<p>road. The flood compensation areas have been checked and approved in principle by the Environment Agency and Internal Drainage Board.</p> <p>The request to retain the freehold ownership of the flood storage area cannot be granted by the Applicant. Similar requests have been made by others and the Applicant's position is that it has been established that any disposal of essential mitigation land, including areas identified as flood compensation, would expose the Applicant to potential criminal sanction for breach of the terms of the DCO if the landowner failed to maintain the mitigation area. The DCO would in part be granted on the basis of the Applicant's provision of essential mitigation. The Applicant's only remedy would be to seek to enforce the covenant against the landowners in the civil courts. There is thus an 'imbalance of consequence' where National Highways would face greater jeopardy than the wrongdoer. The Applicant therefore considers this an unreasonable risk.</p> <p>The Applicant confirms that the proposed access off the Kelpie Marina access road will be moved northwards out of the area of flood compensation.</p>

**REP7-008 – Bletsoes on behalf of John Lammie**

Reference Number	Interested Parties Submission/Applicant's Comments
	<p><b><u>A428 Blackcat to Caxton Gibbet Project – Additional Representation</u></b></p> <p>We represent the interests of John Lammie in his capacity as Tenant under an Agricultural Holdings Act 1986 tenancy and partner of the farming partnership, J &amp; J W Lammie. Mr Lammie occupies various parcels of land affected by the Scheme, some of which lie within the Order Limits for permanent and temporary land acquisition.</p> <p>Following a recent meeting with National Highways and their representatives on 8th December 2021, it has become apparent there are significant unresolved issues that we need to bring to the attention of the Examining Authority and we are now writing to do so.</p> <p>By way of background information, my client has engaged with National Highways from the outset of their project including (but not limited to):</p> <ul style="list-style-type: none"> <li>• Representations to supplementary consultation held in July 2020</li> <li>• Relevant Representation (<b>RR-056</b>)</li> <li>• Written Representation (<b>REP1-081</b>)</li> </ul> <p>In summary, our concerns are:</p> <p><u>Accommodation Works</u></p> <p>From the outset of the Scheme and in all of the representations set out above, we have reiterated the need for Accommodation Works and have requested detailed designs of the proposed accommodation works, so we are able to ascertain the full impact on our client's 'requisite interest', because we do not wish to be put in a position whereby when it comes to the 'detailed design' we are told by National Highways or their Contractor(s) that design issues raised should have been dealt with earlier on in the process and it is too late to adjust design details. Despite our representations, National Highways' position (as set out in RR-056b) is that Accommodation Works will be finalised at 'detailed design'. Our concerns with this approach were realised during the aforementioned meeting with National Highways and their representatives, during which we were told that it may be too late in the DCO process to make provision for an access (in relation to another client's interest), despite raising the need for an access in July 2020 i.e. before the application had been submitted to the Planning Inspectorate. We feel that the issue of Accommodation Works requires closer scrutiny by the Examining Authority.</p>



Reference Number	Interested Parties Submission/Applicant's Comments
	<p>To allay our concerns and resolve the issue, we require a legally binding commitment from National Highways in respect of Accommodation Works.</p> <p><u>Provision of Access</u></p> <p>Within National Highway's response to RR-56a, they state that <i>"the locations of these four accesses have been discussed and agreed with Mr Lammie"</i>. We relied upon this statement. However, during the aforementioned meeting, a representative from Skanska, the 'Principal Contractor' commented that it was not possible to give this assurance until 'detailed design' is completed, i.e., after the examination period. To allay our concerns and resolve the issue, we require a legally binding commitment from National Highways that four accesses to my client's land will be provided and to my client's satisfaction.</p> <p><u>Summary</u></p> <p>In summary, we feel that despite my client's engagement from the outset, National Highways have done very little to resolve his concerns. My client has relied upon assurances given by National Highways during meetings designed to resolve issues, but these assurances have not been fulfilled. We feel that it is important for you to be aware of the issues outlined in this letter, as we fear that if you are not aware of the issues, then you will assume that none exist and that the issues raised in our representations have been resolved.</p> <p>We look forward to discussing the matter with you at the next appropriate opportunity</p>
Applicant's comments	<p>The Applicant informed Mr Lammie's Land Agent that the detailed design period would run throughout 2022 at a meeting held on 8 December 2021, and it is standard practice for the detailed design to be refined and agreed after the close of the DCO examination.</p> <p>The Applicant acknowledges the matters raised by the Land Agent and remains committed to providing accommodation works on a like for like basis where agreed, and in line with what has been agreed with the freeholder.</p> <p>With regards to reaching an agreement with Mr Lammie, the Applicant has issued a private position statement outlining the matters currently under discussion. The purpose of this document is to identify areas in which matters have been agreed, and to outline those matters which require further discussion at the appropriate stage. The position statement produced for Mr Lammie captures accommodation works and the Applicant has maintained its position that accommodation works will be provided, however Mr Lammie is a tenant and so any accommodation works would need to be agreed with the freeholder. It is also understood that Mr Lammie's interest is an Agricultural Holdings Act tenancy. This interest cannot be conveyed through normal means: it can only be surrendered to the Landlord, succeeded by a descendant, or acquired through</p>

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Reference Number	Interested Parties Submission/Applicant's Comments
	<p>compulsory powers. The Applicant is therefore unable to negotiate a voluntary agreement with Mr Lammie. The Applicant will share the detailed design with Mr Lammie as matters progress throughout 2022.</p> <p>The Applicant will continue to communicate with the Land Agent and the Freeholder where appropriate, to resolve Mr Lammie's concerns. A series of action points were taken away by the Applicant from the meeting held 8 December 2021, to which some answers have been relayed back to the Land Agent, and those actions remaining will be clarified to the Land Agent.</p>

**CONFIDENTIAL – Appendix A contains personal and sensitive information and is not to be published**



The Planning  
Inspectorate

Reference	9.111
Name	A428 Black Cat to Caxton Gibbet improvements
Document	Applicant's Comments on the Submissions made at Deadline 7 - <b>Appendix A</b>
Status	Confidential

This document contains confidential information and is only available on request to those who have a legitimate need to view it.