

## **Bedford Borough Council submission Deadline 10 15<sup>th</sup> February 2022**

**Planning Act 2008 (as amended) – Sections 89 and The Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 17**

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

**Second request for further information dated 7<sup>th</sup> Feb 2022:**

### **3. Noise effects of Borrow Pits Bedford Borough Council to respond to the Applicant's comment regarding noise associated with Borrow Pits [REP9-023, WQ3.6.2.1] and confirm their position with regard the adequacy of information provided to the Examination to date**

The applicants have further clarified information supplied within the First Iteration Management Plan and the Borrow Pits Excavation and Restoration report at a meeting held on the 7<sup>th</sup> February 2022. The clarification on measurement guidance and length of time the borrow pits will be in operation, specifically that they will be less than the six months listed as the cut off period for BS5228s requirement for noise levels to be linked to background noise levels, allows Bedford Borough Council to agree the to the adequacy of information provided to the Examination. It should be noted that should the Second Iteration at the detailed design stage require an extended operation that moves beyond this length of time Bedford Borough Council would expect further assessment in line with BS5228 and compliance with limits listed within that document.

### **5. Statements of Common Ground (SoCG) To avoid any scope for conflicting information being provided to the ExA, when SoCGs are being finalised, the ExA would remind all Parties to work with the Applicant to ensure that submissions reflect the most up to date positions of the relevant signatories. In particular, Bedford Borough Council's position relating to baseline noise monitoring and assessment methodology appears to conflict with that discussed at ISH2 [EV-020].**

With respect to baseline noise monitoring and assessment, Bedford Borough Council's position has been that, whilst it is accepted that the Applicant was undertaking modelling based on the 2025 do minimum structured round monitoring taking that had taken place in 2017, Bedford Borough Council remained concerned that there was no up to date monitoring as had been requested to show whether the modelling was still tracking existing noise levels and as such could be considered reliable. However it has been noted that the examiners have proposed an amendment to require operational noise monitoring to ensure noise levels remain in line with the modelled data. This amendment would resolve concerns in relation to baseline monitoring and is welcomed. As such Bedford Borough Council can agree to the amended position within the SoCG.

### **7. Network Management Duty Notwithstanding submissions received at Deadline 8, having considered all the information submitted during the Examination, including but not limited to additional traffic modelling and sensitivity testing, Local Highways Authorities explicitly state whether the Proposed Development will enable you, and the Applicant, to effectively discharge your statutory Network Management Duty, as defined in S16 of the Traffic Management Act, 2004?**

Following the issue of the Rule 17 request for further information, please see below for a position statement on the matter raised under question 7 related to Network Management Duties. The following provides the jointly agreed views of Bedford Borough Council, Central Bedfordshire Council, and the Cambridgeshire authorities. The authorities are also aware of the updated position statements which have been submitted by National Highways with regards to the matters related to

the monitoring and management of construction phase and operation phase impacts of the DCO application. To avoid repletion of points across a number of documents, this response also refers to those proposals where relevant.

The views of the local authorities remain consistent with those submitted at Deadline 6. As detailed within that response the guidance issued by the Secretary of State in the documents "Traffic Management Act 2004 Network Management Duty Guidance" dated November 2004 states that:

*"Primarily, the network management duty is about dealing efficiently with the traffic presented on the network – both now and in the future – and the various activities that are causing or have the potential to cause congestion or disruption to the movement of traffic."*

It is also stated in the guidance that:

*"The efficient management of the road network relies heavily upon the collection and use of accurate, reliable and timely data."*

and that:

*"Authorities are expected to have clear understanding of the problems facing the different parts of their network"*

The duty of the respective highway authorities to manage their networks, with due regard to networks managed by others, is one that will remain in place regardless of the A428 scheme. For clarity the LHAs are not seeking to pass this responsibility to National Highways. However, this should not be conflated with the requirement for development to mitigate its own identified impacts, a fundamental requirement of reasonable planning. Without this the ability of highway authorities to discharge their network management duties would become increasingly difficult, and costly, to undertake, as the authorities would be obliged to manage the harmful impacts of development within their networks.

This matter remains a key principle of the disagreement between the LHAs and the applicant on the matter of monitoring and management of directly attributable scheme impacts. The view consistently expressed by the LHAs throughout the DCO process and summarised in REP6-74 is that the responsibility for monitoring and managing impacts identified within the applicant's submission as being attributable to the scheme, should reasonably fall to the scheme promoter to address.

Paragraph 5.125 of the NPS states that *"The Examining Authority and the Secretary of State should give due consideration to impacts on local transport networks and policies set out in local plans"*, with the LHA submissions at Deadline 6 including reference to relevant local policy, and consider that it is both proportional and reasonable for National Highways, as the applicant, to mitigate in full the impacts that directly relate to the development, whether these occur on the strategic or the local highway networks.

Paragraph 5.216 of the NPS also states that *"Where development would worsen accessibility such impacts should be mitigated so far as reasonably possible."*

As also highlighted in the representations made at deadline 6, there is a reasonable expectation that unmitigated impacts on elements of the local road network could lead to a worsening of local accessibility.

The LHAs note the proposals contained within the most recent submissions made by the applicant with regards to construction phase (REP9-036) and operational phase (REP9-034) monitoring.

National Highways have also shared a draft update to REP9-034 with the LHA's which proposes a wider coverage of baseline survey sites with specific regards to the construction phase.

### **Construction Phase**

With regards to the updated documents submitted, the increase scope of baseline assessment identified is welcomed, however it is also clear that the surveys proposed are restricted to baseline surveys (i.e.: prior to construction) only. No surveys are to be carried out during construction (i.e.: when impacts could reasonably be expected), and as such there is no actual monitoring process proposed. There is also no commitment to work with LHAs to address issues arising during the construction process.

As also outlined in CBC representation REP09-41, the use of a numerical threshold, based upon the use of Strategic Model flows for identifying survey locations would also not address the range of concerns raised by the LHAs, as:

1. The model coding does not permit HGVs to divert onto weight restricted routes, as such the use of model flows would not address the LHA concerns over increased incidences of weight restriction contravention, with HGV use of inappropriate routes identified as a major concern during the A14 works.
2. The use of numerical thresholds will not address issues of increased incidences of speeding or safety arising from self-diverting traffic.

As such the LHAs continue to be of the view that approach outlined in REP6-074 (appended to this response for convenience) remains the most reasonable and proportional approach to construction phase monitoring and would request that the Examining Authority impose a suitable requirement to secure this.

### **Operational Phase**

With regards to the operational phase monitoring, it is noted that the applicant proposes to undertake surveys at a number of locations across the network during years 1 and 5 post opening of the scheme. It is noted that the locations identified in Appendix A are additional to those referenced in the Transport Assessment Annex.

However, it is not clear within the document whether the locations listed in para. 2.1.20 are to be carried out as turning counts with associated queue surveys (which would therefore identify whether capacity issues have arisen following the opening of the scheme) or simply counting link flows on the strategic road network approaches to those junctions, which would not identify issues of congestion or delay and would ignore the resultant impacts on the local road approaches to the junctions in question.

As these locations were identified in the Transport Assessment Annex as being subject to 'Monitor and Manage' based upon potential junction capacity rather than link flow issues, a minimum reasonable requirement would therefore be for full turning counts with supporting queue lengths.

It is also noted in paragraph 2.1.13 of REP9-034 that “it would be for LHAs to bring forward measures, should any be required, at locations on the LRN affected by traffic flow increases identified by operation monitoring.”

As such it appears that whilst a limited degree of operational monitoring is proposed, any management element of the “Monitor and Manage” approach upon which the Transport Assessment Annex is reliant in terms of potential scheme mitigation, is intended to be made the responsibility of the LHAs. This is not considered to be a reasonable approach and referring back to the question over the ability of the authorities to discharge their Network Management Duty, whilst the LHAs will continue to do so, the acceptance of the ‘Monitor and Manage’ approach currently proposed by the applicant will place a potentially significant further burden upon the LHAs when discharging that duty, which they are neither resourced nor funded to accommodate.

Reference is also made within the document to the POPE process including monitoring works. However, the scope and extent of the POPE is not known at this stage, and moreover is not secured through the DCO process. As such this can be given very little weight.

As such the LHAs continue to be of the view that approach outlined in REP6-074 remains the most reasonable and proportional approach to operational phase monitoring and would request that the Examining Authority impose a suitable requirement to secure this.