

East West Railway Company: Deadline 10 submission

A428 Black Cat to Caxton Gibbet Improvement Scheme

Deadline 10, 15th February 2022



1. Further to the Applicant and EWR Co's joint statement submitted at Deadline 9 [REP9-049], an agreement has been completed between the parties ("**Agreement**").
2. On the basis of the contractual protections secured within the Agreement EWR Co hereby withdraws the representations it submitted in respect of the Scheme except as set out in this submission.
3. While the Agreement means that EWR Co no longer requires the draft Protective Provisions to be included in the dDCO, EWR Co maintains the position that, as detailed in EWR Co's response to WQ3.5.2.2(e) [REP8-044], EWR Co should be listed at article 11(5) of the dDCO. Such an inclusion is precedent in other DCOs and is a proportionate approach in the circumstances of this case.
4. This amendment to the dDCO to include EWR Co among the specified list of prospective transferees would mean that the Secretary of State's consent would not be required for the Applicant to transfer or grant the benefit of the provisions of the dDCO to EWR Co. This reflects the position in respect of the statutory undertakers listed at article 11(5) of the dDCO and would circumvent the administrative burden and risk of delay associated with seeking the Secretary of State's consent where such a transfer were agreed as mutually beneficial by the Applicant and EWR Co. Such an approach would be advantageous to both the Applicant and EWR Co.
5. Both the Applicant and EWR Co are public sector bodies, so this approach minimises resources required in the event of a transfer and avoids delay.
6. It is clear that EWR Co is a fit and proper person for the exercise of such powers, given it is owned by the Secretary of State and is a named party for purposes of the equivalent transfer provision in the Network Rail (East West Rail) (Bicester to Bedford Improvements) Order 2022. As such, it is entirely appropriate that the Secretary of State's consent should not be required where two Secretary of State-owned bodies agree to coordinate the exercise of the powers under the dDCO.
7. The scenario in which such a provision may be required includes where for the EWR Project, EWR Co carries out works authorised by the DCO for the Scheme, such as to coordinate site set-up or preliminary works for the EWR Project. Such a scenario is entirely normal in infrastructure interfaces. It does not result in an expansion to the works envisaged in the dDCO for the Scheme and would only apply to works actually authorised by it. There can be no objection to such a limited and sensible inclusion.
8. For completeness, EWR Co respectfully requests that the below provision be inserted at article 11(5) in the made DCO if granted by the Secretary of State:

"(j) East West Railway Company Limited (company number 11072935), whose registered office is at One Grafton Mews, Midsummer Boulevard, Milton Keynes, England, MK9 1FB."