

A428 Black Cat to Caxton Gibbet improvements

TR010044

Volume 9

9.119 Applicant's comments on submissions received at
Deadline 9

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Rule 8(1)(k)

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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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1 Introduction

- 1.1.1 The Development Consent Order (DCO) application for the A428 Black Cat to Caxton Gibbet improvements (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 9 of the Examination.
- 1.1.3 The following representations are addressed in this document:
- a. REP9-041 – Central Bedfordshire Council
 - b. REP9-044 – Cambridgeshire Authorities
 - c. REP9-047 – Deloitte LLP on behalf of the Church Commissioners for England
 - d. REP9-048 – Davison & Company (Great Barford) Limited
 - e. REP9-049 – East West Rail Company
 - f. REP9-054 – Bryan Cave Leighton Paisner LLP on behalf of National Grid
 - g. REP9-056 – Natural England
 - h. REP9-057 – Mr and Mrs Chamberlain
- 1.1.4 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.

2 Applicant's comments on submission made at Deadline 9 from Interested Parties

REP9-041 – Central Bedfordshire Council

Reference Number	Interested Parties Submission/Applicant's Comments
REP9-041a	<p>1 Introduction</p> <p>1.1 CBC understands that National Highways is preparing a document to submit to the Examining Authority (ExA) for DCO Deadline 9, outlining National Highways approach to construction phase monitoring. An initial draft with regards to the expected content of this document has been shared with the local highway authorities (LHAs), which have given the LHAs a reasonable indication of the expected content of this document. Following discussion with National Highways the LHAs have been encouraged to submit a separate representation with regards to this matter.</p>
Applicant's comments	<p>The Applicant can confirm that the National Highways Position Statement on Construction Phase Monitoring [REP9-036] was submitted at Deadline 9. Since the submission the Applicant has further engaged with the Local Highway Authorities and agreed to apply the Guidelines for the Environmental Assessment of Road Traffic consistently for monitoring and baseline counts. This has resulted in an increase of baseline monitoring locations.</p> <p>The updated National Highways Position Statement on Construction Phase Monitoring [TR010044/EXAM/9.118v2] and Outline Construction Traffic Management Plan [TR010044/APP/7.4v5] submitted at Deadline 10 reflect the revised position. The Applicant's position on construction phase baseline monitoring is further detailed in the response to REP9-041b.</p> <p>At Deadline 9, the Applicant set out that a Joint Position Statement on construction phase monitoring would be prepared with the LHAs. However, since the positions of both parties are not aligned, a Joint Position Statement has not been prepared and the Applicant has resubmitted an updated position statement at Deadline 10 - National Highways Position Statement on Construction Phase Monitoring [TR010044/EXAM/9.118v2].</p>
REP9-041b	<p>2 Construction Phase Monitor and Manage</p> <p>2.1 It is CBC's understanding that National Highways propose a numerical threshold approach to identifying locations for baseline traffic monitoring, and that the thresholds selected by National Highways for baseline monitoring are on links where there is either:</p>

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	<p>(a) A predicted increase (within the Strategic Transport Model) in daily flow of 1,000 vehicles.</p> <p>(b) A predicted increase (within the Strategic Transport Model) in HGV traffic of 30%.</p> <p>2.2 It is understood that this threshold-based approach would exclude the majority of survey locations identified in the LHA REP6-074, including the exclusion of all locations within Central Bedfordshire. In addition, it is understood that National Highways does not propose any surveys following the initial baseline, and that no commitment to mitigation is being offered.</p> <p>2.3 The proposals, as CBC understand them, do not address the areas of concern previous expressed, and the following document outlines the reasons for CBC continuing concern with regards to this matter, and commentary upon CBC's understanding of National Highways' position.</p> <p>2.4 In the first instance, CBC consider it important that this matter is not conflated with the separate need for the baseline monitoring necessary to inform the operational phase Monitor and Manage process outlined in REP6-074 and referred to in the ExA's Question Q4.8.1.7 in its proposed changes to the draft DCO dated 14 January 2022. As such, the comments below are predicated on the assertion that baseline surveys for operational phase Monitor and Manage as detailed in REP6-074 are also fully required as part of a separate and necessary process.</p> <p>2.5 For clarity the LHA proposals for construction phase monitoring, including the need for baseline monitoring to set a benchmark for assessing future impacts, were based upon addressing a range of expected construction phase impacts, including:</p> <p>(a) Increased total traffic flows through villages or on unsuitable roads.</p> <p>(b) Increased HGV movements through villages or on unsuitable roads, including contravention of weight restrictions.</p> <p>(c) Increased potential for speeding through villages or on unsuitable roads, as self-diverting traffic seeks to make up lost time.</p> <p>2.6 CBC's responses provided to the ExA with regards to Question 3.11.7.5 at WQ3 also referred to the experiences of CCC associated with the A14 DCO, where construction phase impacts caused considerable issues within the CCC network, a number of which were directly related to HGV movements or contraventions.</p> <p>2.7 Based upon the above range of issues to be addressed, it is therefore not considered that the use of a numerical threshold would be a suitable means of identifying baseline monitoring sites, as:</p>

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	<p>(a) A numerical threshold has little relevance to the variation between locations where impacts are expected, treating increases through a minor rural back road as having the same weight and potential for harm as increases on more major roads.</p> <p>(b) The use of a transport model to assess HGV impacts will not identify or predict issues of HGV contraventions (as it is assumed that HGV traffic within the model would adhere to the model coding, including restrictions on use of routes).</p> <p>(c) The use of a numerical threshold would not identify issues of increased incidences of speeding, and the associated safety concerns.</p> <p>2.8 CBC is also of the view that the threshold selected for total traffic increases appears to be arbitrary, with no rationale provided for the selection of the 1,000 vehicle cut-off for baseline monitoring suggested by National Highways within previous discussions. Conversely the 30% HGV increase appears to be based upon the guidance within the IMEA document 'Environmental Assessment of Road Traffic' in which Rule 1 for the assessment of highway links states that an assessment should: 'include highway links where traffic flows will increase by more than 30% (or the number of heavy goods vehicles will increase by 30%)'.</p> <p>2.9 However, the guidance goes on to state, in Rule 2: 'include any other specifically sensitive areas where traffic flows have increased by 10% or more'.</p> <p>2.10 The areas identified within REP6-074 were on the basis that the locations were considered to be traffic sensitive by the authorities. As such, should the ExA consider that a threshold-based criteria for baseline monitoring is appropriate, CBC considers that links within the identified parishes within CBC experiencing increases of 10% or more should be included (on the basis that an Environmental Statement (ES) assessment would be required for this level of increase and which has not been done). This would require baseline monitoring of construction phase impacts in: (a) Blunham (b) Potton (c) Wrestlingworth (d) Everton</p> <p>2.11 Notwithstanding the above CBC remains of the view that the other locations referenced within REP6-074 also merit construction phase monitoring, in the cases of Sandy and Biggleswade (for example) these were already identified within the submitted Transport Assessment Annex as having key junctions operating over capacity, and therefore where self-diverting traffic during the construction phases could be reasonably expected to create further issues.</p> <p>2.12 It is further understood that ongoing construction phase monitoring is intended to be made the responsibility of the LHAs and that no further monitoring is proposed by National Highways.</p>

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	<p>2.13 It is not considered reasonable or justified for ongoing monitoring of the scheme impacts to be made the responsibility of the LHAs because the impacts being monitored are reasonably related to the A428 project and the resulting mitigation necessary as a result, nor is it considered justified that no monitoring is proposed by National Highways throughout the construction period.</p> <p>2.14 As CBC understands it, NH's proposed approach to construction phase traffic impacts of the local highway network is tantamount to the following (unless the LHAs fund and implement their own monitoring regime and agree this with NH):</p> <ul style="list-style-type: none"> (a) NH will not be monitoring the local highway network during construction. In addition, limited pre-construction surveys are proposed and do not cover any part of the CBC's highways network. CBC understands, in any event, the surveys are to be very limited in scope and effect, not extending beyond a single pre-commencement survey period. (b) Further construction phase traffic monitoring by NH will only be considered limitedly. In the absence of construction phase surveys, there will be no reasonable evidence base to call upon, as the lack of monitoring throughout the construction phases will mean that there is no comparison data (between pre and post commencement of works) and, as such, no requirement for NH will carry out further monitoring. (c) CBC understands that NH intend to discuss findings and necessary intervention within the Traffic Management forums. Along with the lack of monitoring to inform discussions and provide an evidence base to justify interventions, no further commitment beyond the discussion is offered. Any resulting mitigation would be subject to agreement and CBC understands that no process for disputes is included. This provides no secured commitment to work with the LHAs on the delivery of appropriate mitigation where justified.
Applicant's comments	<p>The Applicant agrees that construction phase traffic monitoring is a separate issue to operational phase traffic monitoring (for which a Requirement has been proposed at Deadline 9 [REP9-004]). Construction phase traffic baseline monitoring at several locations has been secured through the OCTMP which was updated at Deadline 9 [REP9-011].</p> <p>However, it should be remembered that:</p> <ul style="list-style-type: none"> • The construction traffic impacts of the A14 scheme are not comparable to the A428 Scheme. The A14 scheme was an online scheme whereas the A428 Scheme is predominantly offline. The A14 was also longer, already a dual carriageway and affecting more local roads than the A428. The A14 (pre works) also carried more traffic than the existing A428. Therefore, the construction traffic impacts for the A14 scheme will be very different and significantly

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	<p>worse when compared to the A428 Scheme.</p> <ul style="list-style-type: none"> • Notwithstanding the above, a number of lessons learned from the A14 scheme have already been embedded into the mitigation for the A428 Scheme. These are secured in the OCTMP [REP9-011] and include, for example, the use of a haul road for construction traffic, agreement not to use certain routes for construction traffic, and the phasing and timing of construction works to minimise impacts on the existing SRN. These measures aim to keep the SRN flowing and reduce SRN delays, and therefore to minimise of the potential for self-diverting traffic re-routing onto the LRN. • The construction traffic impacts with which CBC are concerned predominantly relate to self-diverting traffic. The Applicant has included a commitment to work with the local highway authorities and the police to agree appropriate measures should self-diverting become an issue on the LRN (see paragraph 3.5.10 of [REP9-011]. • This is notwithstanding the fact that the A428 Scheme is offline and that measures have already been secured in the OCTMP (as explained above) to reduce delays on the SRN and therefore minimise the potential risk of self-diverting traffic impacting the LRN. • The Applicant considers it appropriate for LHA's to share monitoring data as they are required to monitor their own network for the purposes of maintenance. The Applicant will closely monitor the SRN to ensure there is no incentive to encourage self-diverting traffic, as secured in the OCTMP [REP9-011]. • The Applicant is not responsible for enforcement of weight or speed restrictions and has no powers to do so. The key junctions at Sandy and Biggleswade are predicted to experience traffic flow increases due to self-diverting traffic of between 3% and 6% and are therefore excluded from the proposed monitoring on the basis that they fall well below the threshold of 30% (10% in sensitive areas) adopting the Guidelines for the Environmental Assessment of Road Traffic' as described below. <p>The National Highways Position Statement on Construction Phase Modelling [REP9-036] was submitted at Deadline 9 and an updated version has been submitted at Deadline 10 [TR010044/EXAM/9.118].</p> <p>For the reasons identified in [REP9-036], at Deadline 9, National Highways proposed to undertake baseline construction phase traffic monitoring on the following seven locations and this was to have been secured in the OCTMP [REP9-011]:</p> <ol style="list-style-type: none"> a. Barford Road, Little Barford b. High Street, Abbotsley

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	<p>c. School Lane, Cambourne</p> <p>d. Caxton Road, Great Gransden/Gransden Road, Caxton</p> <p>e. High Street, Toseland</p> <p>f. High Street, Yelling</p> <p>g. Toft Road, Bourn (B1046)</p> <p>However, having considered the comments by Authorities on responses to the ExA's Third Written Questions (WQ3) [REP9-044] the Applicant has reviewed the list of sites at which National Highways could consider offering monitoring for the purpose of establishing a traffic flow baseline from which the impacts arising during the construction period and also after the opening of the Scheme can be assessed.</p> <p>For the purpose of this review, the criteria set out in the document 'Guidelines for the Environmental Assessment of Road Traffic' were adopted. These are:</p> <p>Rule 1: 'include highway links where traffic flows will increase by more than 30% (or the number of heavy goods vehicles will increase by more than 30%'. Rule 2: 'include any other specifically sensitive areas where traffic flows have increased by 10% or more'.</p> <p>This is consistent with the request from Central Bedfordshire Council in their response to the Construction Phase Joint Position Statement (Jethro Punter to James Dickson, 25 January). It is of note that CBC state in their response that <i>"the areas identified within REP6-074 were on the basis that the locations were considered to be traffic sensitive by the authorities. As such, should the Examining Authority consider that a threshold-based criteria for baseline monitoring is appropriate, CBC consider that links within the identified parishes within CBC experiencing increases of 10% or more should be included (on the basis that an ES assessment would be required for this level of increase).</i></p> <p><i>However, in interpreting these Rules HA has applied a lower cut-off of 12 HGVs per day, below which increases of >10% or >30% will be ignored."</i></p> <p>Application of this criteria resulted in no change in the number of additional sites for which Operational Phase monitoring might reasonably be justified, over and above those already proposed in the TAA [APP-243] and the additional site proposed as a result of the analysis presented in and in the document 'Results of Additional VISSIM Modelling at M11 Junction 13' [REP8-019]. The number of sites therefore remains at 5.</p>

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	<p>Application of the criteria indicated that the number of additional sites for which Construction Phase monitoring might reasonably be justified would increase from eight (two of these sites were combined to give a net total of seven) to at least 22 (21). A further 3 sites would be included in the monitoring if they were accepted as 'sensitive locations' at which an increase in traffic flows or HGV flows of more than 10% needed to be monitored.</p> <p>The criteria for the proposed threshold for monitoring together with details of the sites proposed for monitoring were presented to a joint meeting of the Local Authorities involving Cambridgeshire County Council, Central Bedfordshire Council and Bedford Borough Council, on 4 February 2022.</p> <p>The Applicant requested that the Local Authorities provided evidence for the locations that were deemed 'sensitive' in accordance with GEART criteria and therefore qualify for monitoring under rule 2 of the criteria (i.e. an increase of 10% or greater.) As noted above, the number of operational sites remained unchanged as a result of adopting a 10% threshold.</p> <p>Following a response from both Cambridgeshire and Central Bedfordshire Councils, a total of 22 sites were added to the pre-construction baseline monitoring and a further 3 sites will be given further consideration based on evidence sought from the Local Highway Authorities as to the sensitivity of the locations concerned</p> <p>Locations which meet the criterion of a 30% increase in all vehicle or HGV traffic, or which the Applicant accepts are sensitive locations in the terms defined in the Guidance are as follows:</p> <p>Bedford Borough</p> <ul style="list-style-type: none"> a. Little Barford: Barford Road. b. Staploe and Duloe: Shakers Way/Duloe Road (one site). <p>Cambridgeshire</p> <ul style="list-style-type: none"> a. Abbotsley: High Street. b. Bourn: Toft Road (B1046). c. Cambourne: School Lane. d. Caxton: Gransden Road (*). e. Conington: Elsworth Road. f. Elsworth: Boxworth Road.

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	<p>g. Eltisley: Potton End.</p> <p>h. Gamlingay: Church End/Church Street.</p> <p>i. Great Gransden: Caxton Road (*).</p> <p>j. Highfields Caldecote: Main Street.</p> <p>k. Knapwell: High Street.</p> <p>l. Little Gransden: Main Road.</p> <p>m. Madingley: High Street.</p> <p>n. St Neots: Town Bridge (**).</p> <p>o. Toseland: High Street.</p> <p>p. Waresley: Gransden Road.</p> <p>q. Yelling: High Street.</p> <p>(*) – these locations are on the same highway link and would therefore be covered by one monitoring site.</p> <p>(**) – this location does not meet the numerical criterion but the Applicant has agreed to undertake baseline monitoring because it is highly probable that this location will be assessed as part of measuring scheme benefits.</p> <p>Central Bedfordshire</p> <p>a. Blunham: Barford Road.</p> <p>b. Potton: Blackbird Street.</p> <p>c. Everton: Everton Road.</p> <p>In addition, consideration will be given to the following locations, based on evidence sought from the Local Highway Authorities as to the sensitivity of the locations concerned:</p> <p>Bedford Borough</p> <p>a. Great Barford: Great Barford Bridge.</p>

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	<p>b. Renhold: Top End/ Green End/Water End (one site).</p> <p>Central Bedfordshire</p> <p>a. Wrestlingworth: Tadlow Road.</p> <p>The Applicant's latest proposals for operational and construction monitoring are submitted at Deadline 10 in documents [TR010044/EXAM/9.116v2] and [TR010044/EXAM/9.118v2] respectively.</p> <p>There is no requirement to monitor the LRN for scheme benefits as such operational traffic monitoring on the LRN is only proposed in those areas where the Scheme predicts potential adverse impacts on the LRN, and not where benefits are predicted</p> <p>It would be highly unprecedented to secure the monitoring of benefits within the DCO and, there is no basis in law or policy (under the NPS NN) which requires monitoring where significant benefits are predicted.</p>
REP9-041c	<p>3 Conclusion</p> <p>3.1 In conclusion, CBC respectfully submits that it is necessary for the ExA to review and consider the position in the light of the lack of commitment to monitoring, management, or mitigation of construction phase impacts to decide whether it is necessary to be contained in a DCO requirement. In addition, CBC contends that NH's limited proposals for construction phase traffic impacts on the local highway network can only be given very limited, almost nil, weight because something that is not secured in the DCO is of itself of very limited weight.</p> <p>3.2 CBC therefore remains firmly of the view that the approach to construction phase monitoring and mitigation, as outlined in REP6-074 remains the appropriate mechanism by which construction phase impacts can be monitored, managed, and mitigated in a proportional and proactive manner, which was agreed jointly with the other joint local authorities in the form of a draft DCO requirement put forward to the ExA.</p> <p>3.3 CBC continues to request that it is imposed as a DCO requirement by the Secretary of State and ExA.</p>
Applicant's comments	<p>The Applicant has offered a robust and proportionate commitment for undertaking baseline traffic monitoring to assess the potential impacts during the construction phase of the Scheme, as set out in the latest National Highways Position Statement on Construction Phase Modelling [TR010044/EXAM/9.118v2]. This is informed by quantifiable results from the traffic model and the application of appropriate guidance (Guidelines for the Environmental Assessment of Road Traffic – (GEART)) which forms a sound evidence base on which to establish potential locations for baseline construction phase traffic monitoring. As this is secured through the Outline Construction Traffic Management Plan [TR010044/APP/7.4v5] no</p>

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	<p>DCO requirement for construction monitoring and management is necessary. The need for construction monitoring must be considered in the context of the predicted impacts presented through the assessments submitted with the DCO application and throughout the Examination, as well as the embedded mitigation already secured in the Outline Construction Traffic Management Plan [TR010044/APP/7.4v5] and in light of the major long term traffic decongestion benefits the Scheme will bring to local communities as well as to the long distance through traffic.</p>

REP9-044 – Cambridge Authorities

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Biodiversity and Ecological Conservation	
REP9-044a	<p>Biodiversity Net Gain - 3.3.2.1</p> <p>c) The Councils are not yet convinced by the Applicant's claims that National Highways BNG calculations show "positive results of BNG calculations for area-based habitat" for the reasons set out in our BNG Technical Note [REP6-062] and confirmed by Natural England's BNG specialists in their response to Question Q3.3.2.1 [REP8-049]. However, the Councils are considering this point further in light of the information provided by National Highways at Deadline 8 [REP8-012]. We will review and respond to this information at Deadline 10.</p> <p>The Councils consider that it is self-evident that the parts of the ES that rely upon the previous BNG calculation should be updated to take account of the new BNG calculation.</p> <p>d) The BNG calculation provides a key aspect of the ecological assessment and is standard practice to be included with NSIP scheme submissions, upon which the impact of the scheme is assessed. See our BNG Technical Note for examples of NSIP scheme submissions that have used a biodiversity metric [REP6-062].</p> <p>The Biodiversity Metric helps in the decision-making process, as follows:</p> <p>In accordance with NPS NN (paragraph 5.26) the impact of schemes on habitats of principle importance and biodiversity in the wider environment must be taken into account by the Secretary of State. The Biodiversity Metric 2.0 calculation provides quantitative evidence to demonstrate whether or not the scheme will deliver net losses (or gains) of biodiversity value of habitat.</p> <p>For this scheme, the Biodiversity Metric 2.0 [REP3-013] clearly shows the scheme will result in uncompensated for losses in both habitats of principle importance for nature conservation (i.e. priority habitats) and wider habitats, as set out in our Technical Note [REP6-062]. The Technical Note also highlights inconsistencies between the assessment in the Environmental Statement Chapter 12 and the Biodiversity Metric 2.0 results.</p> <p>In accordance with NPS NN (paragraph 5.25), schemes that are unable to fully mitigate for such losses, biodiversity-offsetting should be required to achieve net loss and preferable net gain in biodiversity. The Biodiversity Metric helps to inform the level of biodiversity offsetting required, which takes into account the location of the off-setting and whether the scheme delivers strategic priorities for the area.</p>

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	<p>e) The Applicant has stated that the Defra Metric 2.0 has “over-estimated the loss of biodiversity units”. We do not accept this justification. Habitat survey work was undertaken in 2021 to inform the Defra Metric, paragraph 2.1.6 [REP5-013]. The survey work has provided no significant changes to the Defra Metric 2.0 calculations. Therefore, we are unclear how there can be an over-estimation of loss of biodiversity. We suggest the current values of the Defra Metric 2.0 [REP3-013] should be applied, unless the Applicant can undertake further survey work or provide a more accurate scheme design (to minimise losses) to address these ‘over-estimations’.</p> <p>The Council disagrees with the Applicant’s statement that trading rules are “suggested actions”. We refer the applicant to Natural England response to question 3.3.2.1 [REP8-049]. Natural England’s BNG Specialists have advised the trading down rules of the metric have been applied incorrectly and the assessment should be updated to correctly apply the trading down rules. The Biodiversity Metric 2.0 User Guide [REP6-068] describes the rules as underpinning the metric (paragraph 2.2) and that “[u]sers wanting to apply the metric properly should conduct their assessments with regard to a set of key principles and rules for its use” (paragraph 2.23). Rather than being suggested actions, the Councils consider these rules to be fundamental to the correct application to the metric.</p> <p>We acknowledge that following the trading rules “may not be feasible” within the scheme. In these situations, compensation should be addressed through off-setting.</p> <p>f) The Councils refer to Natural England’s position, who confirm that the scheme may result in net loss in biodiversity value. As set out above Q3.3.2.1(e), such uncompensated losses should be addressed through biodiversity off-setting (paragraph 2.25 NPS NN). If the Applicant is able to provide any adequate biodiversity compensation within the scheme, then a biodiversity offsetting scheme should be providing.</p> <p>The Councils are concerned that the Applicant has not provided any proposal for biodiversity offsetting and therefore, it is unclear whether the Applicant is able to adequately address biodiversity net loss as part of the Scheme. The Councils seek a Biodiversity Net Gain Strategy to set out how ‘no net loss’ will be achieved by the Scheme, including an outline biodiversity off-setting scheme and update BNG assessments at detailed design stage, construction and long-term management to demonstrate that ‘no net loss’ in biodiversity value will be delivered.</p> <p>The Council is unclear how the Applicant will secure ‘no net loss’ through the current dDCO and therefore suggest an additional Requirement for Biodiversity Net Gain. The Councils will comment further on this alongside their comments on the Biodiversity Technical Note [REP8-049] at Deadline 10.</p> <p>Presently, the Councils consider that the ExA should contemplate a Requirement in the following terms:</p>

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	<p><i>“(1) No part of the authorised development is to commence until a biodiversity offsetting scheme has been submitted to and approved in writing by the Secretary of State following consultation with the relevant local planning authority. The biodiversity offsetting scheme must include provision for:</i></p> <p><i>(a) how the predicted habitat losses incurred as a result of the authorised development will be offset and the target condition for each habitat;</i></p> <p><i>(b) an update to the biodiversity net gain calculations following the detailed design of the authorised development; and</i></p> <p><i>(c) a programme for monitoring and management of biodiversity offset proposals to meet the policy requirements that the biodiversity habitat be maintained for at least 30 years.</i></p> <p><i>(2) The biodiversity offsetting scheme must provide for its implementation [prior to]/[within 3 years] of completion of the authorised development.”</i></p>
Applicant's comments	<p>The Applicant notes the response provided by the Cambridgeshire Authorities and has responded in summary as the Applicant considers it has fully explained and addressed why it is not necessary for Biodiversity Net Gain (BNG) to be secured as part of the Scheme.</p> <p>The Applicant has corresponded in detail and highlighted in the relevant written submissions, including the Biodiversity Net Gain: Metric 2.0 [REP3-012] submitted at Deadline 3, and the Applicant's comments on the Biodiversity Net Gain Technical Note [REP6-062], [REP8-012] submitted at Deadline 8, the limitations of a Defra Metric 2.0 BNG score using data compiled for a National Highways Metric.</p> <p>The Applicant is therefore concerned that at the request of the Examining Authority within their First Round of Written Questions [PD-008] at Deadline 1, to undertake a BNG calculation using the Defra 2.0 metric for a comparative exercise, which was undertaken and submitted by the Applicant on a voluntary basis and as information only, has subsequently been interpreted by stakeholders as the Biodiversity Net Gain methodology and score against which the Scheme is to be scrutinized. Thus, this has led to requests for offsetting and additional mitigation, neither of which the Scheme is required to take into consideration at preliminary or detailed design.</p> <p>It is very clear that the National Policy Statement for National Networks (NPSNN) does not specify the requirement for biodiversity net gain or the need to use a particular metric for Nationally Significant Infrastructure Projects (NSIPs). In addition, the conclusions on biodiversity impacts recorded in the Environmental Statement [APP-077] do not rely on, and will not change, as a result of any Biodiversity Net Gain calculation, as has been accepted and acknowledged by Natural England. Chapter 8, Biodiversity of the Environmental Statement [APP-077] concludes that there will be no significant harm to</p>

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	<p>biodiversity as a result of the Scheme, and all significant impacts on biodiversity have been avoided and mitigated. Accordingly, Paragraph 5.25 of the NPSNN is not engaged as the Cambridgeshire Authorities contend.</p> <p>The Applicant has explained that the Scheme will not result in uncompensated losses of priority habitats in the Applicant's comments on the Biodiversity Net Gain Technical Note [REP6-062], [REP8-012] and therefore there is no need for biodiversity offsetting.</p> <p>In light of the above, the Applicant strongly disagrees with the Cambridgeshire Authorities' suggestion that a Requirement (as worded or similar to that in Part f of [REP9-044a]) should be considered for inclusion within the Draft Development Consent Order (dDCO).</p> <p>Finally, it is disappointing to note that despite having the opportunity to make full submissions on Biodiversity Net Gain and provide a response to [REP8-049] at Deadline 9, the Cambridgeshire Authorities have chosen to make further submissions at Deadline 10. This will limit the Applicant's ability to provide a considered and reasoned response to such submissions in advance of the close of the Examination. We would ask the Examining Authority to note this and to give the Cambridgeshire Authorities further submissions appropriate weight in the circumstances.</p>
REP9-044b	<p>Quantum of Hedgerows - 3.3.3.1</p> <p>b) Given it will "<i>not be possible to determine the hedgerows which will be retained... until detailed design stage</i>", it must therefore be assumed all hedgerows will be removed and BNG calculations assessed as such. If the Applicant is unable to provide adequate compensation for loss of hedgerow biodiversity value within the Scheme, then a biodiversity offsetting scheme should be provided.</p> <p>As set out in the Councils response above to 3.3.2.1.(f) it is suggested that a Biodiversity Net Gain Strategy is produced to confirm how the scheme will deliver no net loss, including biodiversity off-setting and monitoring of BNG calculations throughout the development.</p>
Applicant's comments	<p>The Applicant notes the response provided by the Cambridgeshire Authorities, which confuses the interim results of a voluntary Biodiversity Net Gain assessment with the conclusions reached in Chapter 8, Biodiversity of the Environmental Statement [APP-077] and therefore results in a misapplication of policy contained in the NPSNN. Please see the Applicant's comments to [REP9-044a] above.</p>

A428 Black Cat to Caxton Gibbet improvements
 Applicant's comments on submissions received at Deadline 9

Reference Number	Interested Parties Submission/Applicant's Comments
REP9-044c	<p>Habitat Fragmentation - 3.3.5.1</p> <p>b) The Councils have requested that further details of the landscaping and design of the bat tunnel are included as part of the Scheme Design and Design Principles Document (see the Councils' mark up at REP6-063), which will ultimately be secured through Requirement 12 – Detailed Design. The Councils note the submission of an updated version of the Scheme Design Approach and Design Principles report at Deadline 8 [REP8-007]. We will submit comments accordingly at Deadline 10.</p>
Applicant's comments	<p>The Applicant notes the response provided by the Cambridgeshire Authorities. Again, the Applicant considers it unfortunate that the Cambridgeshire Authorities have chosen to delay responding to Deadline 8 submissions until Deadline 10, which will afford the Applicant no reasonable opportunity to take those comments into account or address any requests (to the extent reasonable and appropriate) prior to Deadline 10.</p>
REP9-044d	<p>Aquatic Environment and Biodiversity - 3.3.6.1</p> <p>b) The Councils welcome clarification of the proposed enhancement works to pond 83, which mitigate the loss of two other ponds within Cambridgeshire (ponds 37 and 84).</p> <p>The Councils seek an update to the First Iteration Environmental Management Plan [REP6-008] and Environmental Masterplan [REP6-006] to include these proposed enhancement works and management.</p>
Applicant's comments	<p>The Applicant notes the response provided by the Cambridgeshire Authorities.</p> <p>Annex D of the First Iteration Environmental Management Plan submitted at Deadline 9 [REP9-009] includes restoration of retained Pond 83, as stated in Section 1.11 and Annex L was updated in Sections 1.11 and 1.15 to include restoration and long-term management of retained and created ponds. The pond location near the Caxton Gibbet junction is shown on the Environmental Masterplan [REP9-037] on DR-LV-0015.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
Climate Change and Carbon Emissions	
REP9-044e	Emissions - 3.4.1.1 e) and f) The Applicant maintains that there is no requirement for them to assess the significance of the scheme on regional or local carbon budgets and that the NPSNN does not require them to carry out such an assessment. This overlooks the EIA guidance which specifies that the significance of effects should be assessed on a national, regional and local level.
Applicant's comments	The Applicant notes the comments from the Cambridgeshire Authorities and maintains the position in the response provided at Deadline 9. See Cumulative Effects of Greenhouse Gas Emissions from the Proposed Development [REP9-029].
Construction methods and effects	
REP9-044f	Environmental Management Plan - 3.6.3.1 c) Following discussions with the Applicant on 11 January 2022, the Councils position is now reflected in our comments on the draft Development Consent Order [REP8-028] and in our D8 submission REP8-032. In summary, construction work for the authorised development must only take place between 0700 hours and 1800 hours Monday to Friday, and 0700 hours to 1300 hours on Saturdays, with no activity on Sundays or bank holidays, except as specified in Schedule 2 Part 1 paragraph 19(2). Our amendments in REP8-028 include the removal of certain previous exceptions that were considered to be potentially noisy activities.
Applicant's comments	The Applicant notes the comments from the Cambridgeshire Authorities and can confirm that Schedule 2 Part 1 paragraph 19(2) in the draft Development Consent Order [REP9-004] has been further updated and submitted at Deadline 9.
Good Design	
REP9-044g	Visual appearance and design principles 3.10.1.1 The Councils note the submission of an updated version of the Scheme Design Approach and Design Principles report at Deadline 8. We will submit comments accordingly at Deadline 10 [REP8-007].

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	<p>The Applicant notes the response provided by the Cambridgeshire Authorities. As set out above, it is disappointing that the Cambridgeshire Authorities have chosen not to submit comments at Deadline 9, which would have afforded an opportunity for the Applicant to consider those comments and address them (as appropriate) at Deadline 10, prior to the end of the Examination.</p>
REP9-044h	<p>Design development process - 3.10.2.1</p> <p>Please see the Councils' response to the ExA's Proposed Changes to the dDCO, Q4.8.1.4, submitted at Deadline 9 in document CLA.D9.ExA.dDCO.C.</p> <p>As there are outstanding concerns including the suitability of structures for appearance and place making, usability for non-motorised users, and compatibility with proposed mammal corridor functions, and consultation on the details of structures remains high-level, local authorities request further consultation and collaborations through detailed design as detailed in the above response.</p> <p>The Councils welcome the conclusion the ExA has drawn regarding detailed design and engagement and we agree with the findings.</p> <p>Approval of the detailed design will have regard to the Second Iteration Environmental Management Plan and the Environmental Master Plan, to ensure an attractive setting for the structures, in terms of landscape character and visual quality, as well as a functional setting, both in terms of human and wildlife needs. The Councils would also look to the design to achieve the aims of all local and national active travel Policies along the length of the proposals.</p> <p>A plan showing the bat survey data and proposed structures should be made available to the local authorities and Natural England, prior to the further development of design detail, with the opportunity to respond on the number and location of any further mammal crossings needed.</p>
Applicant's comments	<p>There are alternative mechanisms secured within the DCO through which the Councils have the ability to influence their concerns listed above. For example, The Councils are consulted on the Second Iteration EMP through Requirement 3 and the landscaping scheme through Requirement 6. Additionally, the Councils have a certification right over the design of new highways by virtue of Article 13 of the draft Development Consent Order [REP9-004]. Accordingly, the Applicant considers that minimal benefit for the Councils would be created by a detailed design approval right and there would be a significant detriment to the Applicant. The Applicant cannot facilitate a detailed design process and requirement for approval beyond consent without incurring substantial cost from delays to construction, at taxpayer expense as well as delaying the benefits that the</p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>implementation of the Scheme will deliver.</p> <p>The detailed design will have regard to the Second Iteration Environmental Management Plan and the Environmental Masterplan [REP9-037] for the Scheme. Further, the design of the Scheme has considered the applicable and relevant national and local policies at the time the Application was submitted for consideration.</p> <p>With regards to crossing points for bats or other species, the Applicant refers the Cambridgeshire Authorities to Chapter 8, Biodiversity [APP-077] and the Environmental Masterplan [REP9-037], which detail and present the mitigation requirements for the Scheme relating to crossing points. The Applicant does not consider, nor has proposed any further crossing points, required to mitigate the effects of the Scheme on bats and/or mammals.</p> <p>With regards to suitability for both humans and wildlife, the Applicant confirms that the functional needs for both can be accommodated within these structures. Evidence that bats and other wildlife will use multi-purpose underpasses, including ones used by humans is provided in Q3.3.5.1 in the Applicant's Response to the Examining Authority's Third Round of Written Questions [REP8-014].</p>
Transport Modelling	
REP9-044i	<p>Changes DfT TAG Data Book - 3.11.1.1</p> <p>The proposed approach by the Applicant in relation to updates to the TAG data book and the Emissions Factor Tool Kit appears reasonable.</p>
Applicant's comments	<p>The Applicant notes the response provided by the Cambridgeshire Authorities. The results of the assessment using the latest TAG Data Book and Emissions Factor Toolkit were submitted at Deadline 9 'Economic Sensitivity Test' (November 2021 TAG Update) [REP9-033].</p>
REP9-044j	<p>Operational phase monitoring and evaluation - 3.11.2.1</p> <p>CCC require the monitoring of the impact of the Scheme (both positive and negative) and not the general operation of the entire LRN. Where there is shown to be a negative impact as a result of the scheme then this should be mitigated by the applicant. The use of the POPE to undertake the evaluation of the scheme is reasonable but CCC would like to see an agreement as part of the DCO setting out the areas where the impact of the scheme needs monitoring. CCC along with Central Bedfordshire and Bedford Borough Councils have set out the requirements for monitoring, these are set out in the note submitted at Deadline 6 [REP6-074]. The locations set out in this note should be included in the POPE and should be secured</p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>through the DCO process to give the Councils the confidence that the monitoring and evaluation of the scheme will cover all the necessary areas.</p> <p>The Councils disagree that the Councils have not provided an evidence based justification for the locations selected. The Councils' response to Q3.11.2 [REP8-035] sets out the rationale for selection of these locations, drawing on the evidence submitted by the Applicant.</p> <p>The Councils disagree that the proposed Requirement [REP6-074] does not meet the requisite tests as set out in PINS Guidance Note 15, as follows:</p> <p>Precise – the Applicant has taken the extracted wording of the Requirements out of context. The Requirements oblige the Applicant to prepare a scheme for the monitoring and management of adverse traffic impacts arising from the construction of the Scheme. The general specification of the relevant locations allows the Applicant sufficient flexibility to produce a scheme which allows monitoring of the relevant general locations in a manner which is practically implementable. As set out in the Councils' response to Q3.11.2 [REP8-035], similar Requirements were including in the A14 Cambridge to Huntingdon Improvement Scheme DCO and the A303 Sparkford to Ilchester Dualling DCO. Neither Requirement set out precise junction locations at which monitoring was to take place in the requirement itself but provided that the locations were to be set out in the scheme in the same manner as the Council's proposed Requirements [REP6-074]. The Secretary of State evidently concluded that these Requirements were sufficiently precise so as to be valid.</p> <p>Enforcement – the Councils disagree with the Applicant that it would not be in the public interest to enforce this requirement. As set out in the Councils' response to Q3.11. 2 [REP8-035], the examination of the evidence supplied by the Councils reveals the need for monitoring of the local road network. These potential impacts arise purely as a result of the Scheme and, should there be a need to manage the network accordingly, there is no secured commitment from the Applicant to do so. The burden of management of any Scheme impacts would therefore fall to the local highway authority, which may result in inappropriate budgetary pressures on CCC's functions. The Councils consider it to be in the public interest that the Requirement is secured and, if necessary, enforced.</p> <p>Necessary – the Councils have set out in their response to Q3.11.2 [REP8-035] that the need for monitoring and management of the local highway network arises due to (i) the predicted effects on traffic as a result of the Scheme; and (ii) the presence of errors in the coding of the model in key locations. The Councils wish to emphasise that the first element of the Requirement is for these impacts to be monitored. Should the monitoring reveal no significant impacts, the Councils would not anticipate a requirement for any mitigation or management measures, in line with NPSNN policy. The triggers for those mitigation measures would be proposed by the Applicant and ultimately approved by the Secretary of State, following consultation with the relevant local highway authority. However, the need for those measures cannot be properly understood until such time as</p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>the monitoring has been carried out. Limiting the monitoring only to areas where the Applicant has predicted significant impacts could result in other actual significant effects being missed due to the limitations in the model.</p> <p>Relevant to the development – the Councils have set out in their response to Q3.11.2 [REP8- 035] and above that the need for monitoring and, if necessary following that monitoring, mitigation, arises as a direct consequence of the Scheme and is therefore relevant to the development. CCC is not requesting that the Applicant carries out broader, speculative monitoring of the wider network. CCC refutes the assertion that they are overlooking their own general Network Management Duty obligations. Indeed, CCC considers that securing the monitoring and management of predicted areas of congestion at an early stage to be a proactive method of discharging that network management duty.</p> <p>Relevant to planning and reasonable – for the reasons outlined above, the proposed Requirement meets the relevant tests set out in PINS Guidance Note 15.</p>
Applicant's comments	<p><u>Operational Phase Monitoring</u></p> <p>The National Highways Position Statement on Operational Phase Modelling prepared in response to Q4.8.1.7 in the Examining Authority's proposed schedule of changes to the dDCO [PD-015] was submitted at Deadline 9 [REP9-034].</p> <p>This provides a commitment by the Applicant proposes agrees committe to undertake baseline and post-opening traffic monitoring at the following five locations, in addition to those already identified in the Transport Assessment Annex [APP-243] and in the document 'Results of Additional VISSIM Modelling at M11 Junction 13' [REP8-019]:</p> <ol style="list-style-type: none"> a. Great North Road, between A428 and Nelson Rd. b. Cambridge Road, between Station Road and A428 c. Dry Drayton (Park Street East). d. Coton (Brook Lane). e. Sandy (St Neots Road). <p>The Applicant proposes that baseline and post-opening monitoring will occur for a minimum period of 2 weeks and the results will distinguish between HGVs and other vehicles.</p> <p>This was considered a reasonable, proportionate and evidence-based response to the request for monitoring set out by the Local Highway Authorities in [REP6-074] for the reasons already set out in [REP9-034] and the Applicant proposed a requirement to secure this monitoring at Deadline 9 [REP9-004].</p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>However, having considered the comments by the Cambridgeshire Authorities on responses to the ExA's Third Written Questions (WQ3) [REP9-044] the Applicant has reviewed the list of sites at which National Highways could consider offering monitoring for the purpose of establishing a traffic flow baseline for assessing the impacts arising during the construction period and also after the opening of the Scheme.</p> <p>For the purpose of this review, the criteria set out in the document 'Guidelines for the Environmental Assessment of Road Traffic' were adopted. These are:</p> <p>Rule 1: 'include highway links where traffic flows will increase by more than 30% (or the number of heavy goods vehicles will increase by more than 30%'. Rule 2: 'include any other specifically sensitive areas where traffic flows have increased by 10% or more'.</p> <p>This is consistent with the request from Central Bedfordshire Council in their response to the Construction Phase Joint Position Statement (Jethro Punter to James Dickson, 25 January). It is of note that CBC state in their response that <i>"the areas identified within REP6-074 were on the basis that the locations were considered to be traffic sensitive by the authorities. As such, should the Examining Authority consider that a threshold-based criteria for baseline monitoring is appropriate, CBC consider that links within the identified parishes within CBC experiencing increases of 10% or more should be included (on the basis that an ES assessment would be required for this level of increase).</i></p> <p><i>However, in interpreting these Rules HA has applied a lower cut-off of 12 HGVs per day, below which increases of >10% or >30% will be ignored".</i></p> <p>Application of this criteria resulted in no change in the number of additional sites for which Operational Phase monitoring might reasonably be justified, over and above those already proposed in the TAA [APP-243] and the additional site identified as a result of the analysis presented in the document 'Results of Additional VISSIM Modelling at M11 Junction 13' [REP8-019]. The total number of operational phase monitoring locations therefore remains at five.</p> <p><u>Constuction Phase Monitoring</u></p> <p>Application of the criteria indicated that the number of additional sites for which Construction Phase monitoring might reasonably be justified would increase from eight (two of these sites were combined to give a net total of seven) to at least 22 (21). A further 3 sites would be included in the monitoring if they were accepted as 'sensitive locations' at which an increase in traffic flows or HGV flows of more than 10% needed to be monitored.</p> <p>The criteria for the proposed threshold for monitoring together with details of the sites proposed for monitoring were presented to a joint meeting of the Local Authorities involving Cambridgeshire County Council, Central Bedfordshire Council and Bedford</p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>Borough Council, on 4 February 2022.</p> <p>The Applicant requested that the Local Authorities provided evidence for the locations that were deemed 'sensitive' and therefore qualify for monitoring under rule 2 of the criteria (i.e. an increase of 10% or greater). As noted above, the number of operational sites would not increase as a result of adopting a 10% threshold.</p> <p>Following a response from both Cambridgeshire and Central Bedfordshire Councils, a further 14 sites were added to the pre-construction monitoring and a further 3 sites will be given further consideration based on evidence sought from the Local Highway Authorities as to the sensitivity of the locations concerned.</p> <p>Locations which meet the criterion of a 30% increase in all vehicle or HGV traffic, or which the Applicant accepts are sensitive locations in the terms defined in the Guidance are listed below:</p> <p>Bedford Borough</p> <ul style="list-style-type: none"> a. Little Barford: Barford Road. b. Staploe and Duloe: Shakers Way/Duloe Road (one site). <p>Cambridgeshire</p> <ul style="list-style-type: none"> a. Abbotsley: High Street. b. Bourn: Toft Road (B1046). c. Cambourne: School Lane. d. Caxton: Gransden Road (*). e. Conington: Elsworth Road. f. Elsworth: Boxworth Road. g. Eltisley: Potton End. h. Gamlingay: Church End/Church Street. i. Great Gransden: Caxton Road (*). j. Highfields Caldecote: Main Street.

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>k. Knapwell: High Street.</p> <p>l. Little Gransden: Main Road.</p> <p>m. Madingley: High Street.</p> <p>n. St Neots: Town Bridge (**).</p> <p>o. Toseland: High Street.</p> <p>p. Waresley: Gransden Road.</p> <p>q. Yelling: High Street.</p> <p>(*) – these locations are on the same highway link and would therefore be covered by one monitoring site.</p> <p>(**) – this location does not meet the numerical criterion but the Applicant has agreed to undertake baseline monitoring because of the high probability this site will be required for the measurement of scheme benefits.</p> <p>Central Bedfordshire</p> <p>a. Blunham: Barford Road.</p> <p>b. Potton: Blackbird Street.</p> <p>c. Everton: Everton Road.</p> <p>In addition, ongoing work will be undertaken to assess the following locations, based on evidence sought from the Local Highway Authorities as to the sensitivity of the locations concerned:</p> <p>Bedford Borough</p> <p>a) Great Barford: Great Barford Bridge.</p> <p>b) Renhold: Top End/Green End/Water End (one site).</p> <p>Central Bedfordshire</p> <p>a. Wrestlingworth: Tadlow Road.</p> <p>The Applicant's latest proposals for operational and construction monitoring are submitted at Deadline 10 in documents [TR010044/EXAM/9.116v2] and [TR010044/EXAM/9.116v2] respectively.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
REP9-044k	<p>Funding mechanism for future improvements - 3.11.2.2</p> <p>The Councils have not been advised of the Applicant's comments regarding Designated Funds bid approvals. The Councils request further detail on the precise proposals set out at b) to allow the Councils to effectively assess what has been granted and respond.</p> <p>For Councils, as a general rule, Designated Funds are an unsatisfactory method of achieving improvements compared to the DCO. The funding is not guaranteed; Designated Funds do not give the legal certainty that the project will be delivered, as has been demonstrated with the upgrades of Public Footpaths Gorton 4 & 5 [REP5-022 pages 7-8]. Furthermore, in addition to match funding, legal costs are not covered by Designated Funds. Those Designated Funds that have been approved, will only be up to 2025, which gives no certainty that the funding to construct designed works will be granted.</p>
Applicant's comments	<p>The Applicant provided an update on successful Designated Funds applications at Deadline 9 in the Applicant's Comments on Submissions Received at Deadline 8 [REP9-026]. The funding granted will enable feasibility work to be commissioned. The work will provide recommendations on preferred designed routes that in this specific instance use the guidance in LTN1/20. The Applicant will engage with the Councils prior to commissioning the feasibility studies to ensure the scope is fit for purpose while still meeting the objectives of Designated Funds. As previously explained in [REP9-026], the improvements sought by the Cambridgeshire Authorities are not required to mitigate impacts arising from the Scheme and nor do they represent reasonable opportunities for the Scheme to deliver as enhancements. They would increase requirements for land acquisition outside of the Order Limits and have the potential for adverse environmental impacts which have not previously been assessed. Therefore, it is not appropriate to require such improvements to be delivered through the DCO.</p>
REP9-044l	<p>Providing opportunities for NMU - 3.11.6.1 a)</p> <p>The Councils have not been advised of the Applicant's comments regarding Designated Funds bid approvals. The Councils request further detail on the precise proposals set out at b) to allow the Councils to effectively assess what has been granted and respond. The Councils' concerns regarding the lack of certainty are explained in our response to Q3.11.2.2 [REP8-035].</p> <p>We continue to maintain our position regarding LTN 1/20 and reject the Applicant's assertions.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	<p>The Applicant provided an update on successful Designated Funds applications at Deadline 9 in the Applicant's Comments on Submissions Received at Deadline 8 [REP9-026]. The funding granted will enable feasibility work to be commissioned. The work will provide recommendations on preferred designed routes that in this specific instance use the guidance in LTN1/20. The Applicant will engage with the Councils prior to commissioning the feasibility studies to ensure the scope is fit for purpose while still meeting the objectives of Designated Funds.</p> <p>The Applicant maintains its position that LTN1/20 does not have to be applied to the Scheme and would remind the Cambridgeshire Authorities of their own comment in Cambridgeshire County Council, Huntingdonshire District Council and South Cambridgeshire District Council Document Index Deadline 4 Submission - Comments on any other information and submissions received at D3 [REP4-060] item 6.5.7a, that the application of LTN1/20 is not mandatory. The Applicant has no grounds to apply for powers to compulsorily acquire land to satisfy the aims of the Local Transport Note or budget to deliver it. Designated funds is the appropriate route to deliver benefits which are beyond the correct scope of the Scheme, as explained in the response to REP9-044k above. From the update provided at Deadline 9, it is clear that the Applicant has successfully utilised this route to secure funds for additional provision.</p>
REP9-044m	<p>Local impacts of construction traffic - 3.11.7.4</p> <p>The Councils will consider and respond to points relating to the local impacts of construction traffic at Deadline 10, alongside the construction HGV flows to be provided at Deadline 9 by the Applicant.</p>
Applicant's comments	<p>The Council's response is noted. It is disappointing that the Cambridgeshire Authorities full comments could not have been provided at Deadline 9 to enable the Applicant an opportunity to consider and respond to them at Deadline 10 in advance of the close of the Examination.</p>
REP9-044n	<p>Monitoring of traffic re-routing during construction - 3.11.7.5 The locations that CCC require monitoring during construction are set out in the note set out in the note submitted at Deadline 6 [REP6-074]. CCC note that the Applicant intend to adopt a <i>"collaborative approach to construction phase traffic monitoring to be defined in a joint position statement with the LHA's to be submitted at Deadline 9"</i>. This approach is welcomed and the locations that CCC require monitoring of self-diverting traffic are set out in the note submitted at Deadline 6 [REP6-074]. There has been no substantive discussion between the Applicant and CCC on this matter.</p> <p>The Councils refer to their comments at Q3.11.2.1 above in relation to the Applicant's response to the proposed Requirement.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	<p>The Applicant is offering a robust and proportionate commitment for undertaking baseline traffic monitoring to assess the potential impacts during the construction phase of the Scheme, as set out in the latest National Highways Position Statement on Construction Phase Modelling submitted at Deadline 10 ([TR010044/EXAM/9.118]). This has been developed as a result of consultation with the Cambridgeshire Authorities that took place following the Applicant's position statement on traffic modelling submitted at Deadline 9 [REP9-035].</p> <p>This is informed by quantifiable results from the traffic model and the application of appropriate guidance (GEART) which forms a sound evidence base on which to establish potential locations for baseline construction phase traffic monitoring. As this is secured through the Outline Construction Traffic Management Plan [REP9-011] no DCO requirement for construction monitoring and management is necessary. The need for construction monitoring must be considered in the context of the predicted impacts presented through the assessments submitted with the DCO application and throughout the Examination, as well as the embedded mitigation already secured in the Outline Construction Traffic Management Plan [REP9-011] and in light of the major long term traffic decongestion benefits the Scheme will bring to local communities as well as to the long distance through traffic.</p> <p>At Deadline 9, the Applicant set out that a Joint Position Statement on construction phase monitoring would be prepared with the LHAs. However, since the positions of both parties are not aligned, a Joint Position Statement has not been prepared and the Applicant has resubmitted an updated position statement at Deadline 10 - National Highways Position Statement on Construction Phase Monitoring [TR010044/EXAM/9.118v2]</p>
Proposed mitigation, management and monitoring	
REP9-044o	<p>Operational noise monitoring - 3.16.2.1</p> <p>Operational noise monitoring is needed to verify modelled predictions are accurate for post construction noise. It would be possible due to the absence of other significant sources of extraneous noise.</p>
Applicant's comments	<p>The Applicant refers the Cambridgeshire Authorities to its response to Q3.16.2.1 in the Applicant's response to the Examining Authority's Third Round of Written Questions [REP8-014]. This confirms that no commitments to operational noise monitoring in the form of road traffic noise monitoring at specific receptors have been identified in made DCO schemes for fifteen schemes it investigated. The response also refers to previous responses submitted at Deadline 3 and Deadline 4 which detail why post opening road traffic noise monitoring is not normally undertaken. Further information on this topic can also be found in the Applicant's responses to the request for further information from the ExA – Rule 17 letter [TR010044/EXAM/9.121].</p>

Reference Number	Interested Parties Submission/Applicant's Comments
Natural England [REP8-049]	
REP9-044p	<p>Q3.3.2.1</p> <p>The Councils welcome Natural England's confirmation that the BNG calculations of 16% BNG may be incorrect and that trading down rules should be correctly applied. This provides further weight to the Council's concerns that the scheme doesn't adequately compensate for habitat loss in biodiversity value [REP6-062].</p> <p>The Councils support Natural England's position that the Applicant should identify opportunities for biodiversity off-setting.</p>
Applicant's comments	The Applicant refers the Cambridgeshire Authorities to its response to REP9-044a .
REP9-044q	<p>Q3.3.4.2</p> <p>The Councils support Natural England position requiring further justification for the level of survey work undertaken.</p>
Applicant's comments	The Applicant notes the response provided by the Cambridgeshire Authorities. Please see our responses to this under REP9-056 .
REP9-044r	<p>Q3.3.5.1</p> <p>The Councils agree with Natural England's position that further information is required to inform the bat mitigation measures.</p>
Applicant's comments	The Applicant notes the response provided by the Cambridgeshire Authorities. Please see our responses to this under REP9-056 .

REP9-047 – Deloitte LLP on behalf of the Church Commissioners for England

Reference Number	Interested Parties Submission/Applicant's Comments
REP9-047a	<p>We write on behalf of the Church Commissioners for England (CCE) in connection with land it has an interest in, which will be impacted by the A428 improvement scheme. The land is located broadly between the settlements of Cambourne and Eltisley, as identified within our Written Representation.</p> <p>This correspondence relates to 'Deadline 9'. As an Interested Party the following update is provided on behalf of the CCE in advance of Deadline 9 today.</p> <p>Charles Russell Speechlys (CRS – lawyers for CCE) have confirmed as below.</p> <p>Document TR010044/EXAM/9.4 notes the agreed timetable (the section headed "Status of objection" is out of date). The timetable contemplated the return by Eversheds (lawyers for National Highways) of the second revision documentation on 7 January 2022. Unfortunately, the option agreement was only returned on 19 January 2022. The borrow pit lease still has not been returned (as at 24 January 2022). On 14 January, CRS asked for a call with representatives of NH which was declined by Eversheds as the documents had not been returned due to the lawyer being tied up on other pressing matters.</p> <p>On return of the documents on 19 January, Eversheds confirmed that they were content to have a call, but needed to understand negotiations on land value. CRS responded on 20 January asking for dates/times of a meeting and indicating that NH's position as to value was not agreed, but that this need not hold up documentation given any dispute could be resolved by the Tribunal in the usual way (a point already raised with NH and not disputed). A response is awaited on this and a number of other matters.</p> <p>CCE remains frustrated with NH's failure to commit resources to this negotiation and to meet agreed deadlines. CCE has itself committed significant resource in good faith that NH is willing to reach agreement. So far as CCE is concerned, no "show stoppers" have arisen. CCE would wish to provide full final representations on the position to the Examining Authority before the examination closes.</p> <p>If you would like to discuss any aspect, please do not hesitate to contact my colleague, Nolan Tucker.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	<p>The Applicant has sought to meet the agreed timetable where possible. On 14 January 2022 the Applicant received an email from the CCE requesting a substantive response by close of business on 17 January 2022. The Applicant responded on 17 January 2022 to confirm that it would respond by close of play on 18 January 2022.</p> <p>The response was issued on 19 January 2022. The response included draft Transfer and Option documents, but the Applicant was still awaiting comments from the main contractor regarding the practicalities of the borrow pit lease agreement. A response from the CCE was received on 20 January 2022 raising several points. Some of these were dealt with in the drafting of the legal documents or had been resolved previously. The Applicant responded on 1 February 2022 providing a substantive response on all points except the borrow pit lease. The amended draft borrow pit lease was shared with the CCE on 2 February 2022.</p> <p>The Applicant had a meeting with the CCE's land agent on 13 January 2022 to discuss values. The Applicant is still awaiting comparable evidence to support their valuation.</p> <p>A meeting was held on 8 February 2022 to discuss the final outstanding points in the option agreement. The Applicant sent a revised option agreement to the Land Agent later on 8 February 2022. Amendments were received back from the CCE's Land Agent on 10 February 2022, which were then discussed in further detail at a meeting held on 11 February 2022 between the two parties. At the meeting held on 11 February 2022, an additional term was proposed by the landowner.</p> <p>Following the meeting held on 11 February 2022, the Applicant sent what it believes to be the final version of the agreement over to the Land Agent on 14 February 2022. The Applicant awaits a response.</p>

REP9-048 – Davison & Company (Great Barford) Limited

Reference Number	Interested Parties Submission/Applicant's Comments												
REP9-048a	<p>We comment as follows in respect of the Applicant's Deadline 8 submissions and Compulsory Acquisition Schedule:</p> <p>Status of negotiations The parties met on 5th January 2022 and agreed the engagement timetable set out below in accordance with the ExA's instructions to the Applicant following Compulsory Acquisition Hearing 2 to provide:</p> <p><i>"Evidence of an established dialogue over outstanding issues, such as schedule of meetings and agreed timetable relative to the Examination Timetable"</i></p> <p>Our updates to the agreed timetable are in red:</p> <p>SCHEDULE OF MEETINGS AND TIMETABLE:</p> <table border="1" data-bbox="465 715 1890 1390"> <thead> <tr> <th data-bbox="472 719 792 778">Timetable</th> <th data-bbox="799 719 1061 778">Date</th> <th data-bbox="1068 719 1330 778">Attendees/Action</th> <th data-bbox="1337 719 1883 778">Update 25/01/22</th> </tr> </thead> <tbody> <tr> <td data-bbox="472 783 792 1270">Agree HoTs</td> <td data-bbox="799 783 1061 1270">W/C 10th Jan</td> <td data-bbox="1068 783 1330 1270">All</td> <td data-bbox="1337 783 1883 1270"> <p>Borrow-pit Lease – Davison & Co confirmed HOTs agreed 14/01/22.</p> <p>Option – On 5th January the Applicant agreed to consider reserving rights of way etc. in the option, to avoid the scheme fettering future uses of Davison & Co's retained land.</p> <p>The Applicant's response is pending. The Applicant has made agreeing a land value a condition of entering into an option. The Applicant's valuers have therefore been invited to inspect the Option land for their valuation and their response is pending.</p> </td> </tr> <tr> <td data-bbox="472 1275 792 1385">Instruct solicitors</td> <td data-bbox="799 1275 1061 1385">W/C 10th Jan</td> <td data-bbox="1068 1275 1330 1385">All</td> <td data-bbox="1337 1275 1883 1385"> <p>Davison & Co await confirmation that the Applicant's solicitors are instructed on the Borrow-pit lease.</p> </td> </tr> </tbody> </table>	Timetable	Date	Attendees/Action	Update 25/01/22	Agree HoTs	W/C 10 th Jan	All	<p>Borrow-pit Lease – Davison & Co confirmed HOTs agreed 14/01/22.</p> <p>Option – On 5th January the Applicant agreed to consider reserving rights of way etc. in the option, to avoid the scheme fettering future uses of Davison & Co's retained land.</p> <p>The Applicant's response is pending. The Applicant has made agreeing a land value a condition of entering into an option. The Applicant's valuers have therefore been invited to inspect the Option land for their valuation and their response is pending.</p>	Instruct solicitors	W/C 10 th Jan	All	<p>Davison & Co await confirmation that the Applicant's solicitors are instructed on the Borrow-pit lease.</p>
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Instruct solicitors	W/C 10 th Jan	All	<p>Davison & Co await confirmation that the Applicant's solicitors are instructed on the Borrow-pit lease.</p>										

Reference Number	Interested Parties Submission/Applicant's Comments			
	Follow up meeting with A428 Team	W/C 24 th Jan (TBC)	All inc solicitors	Davison & Co. have requested a follow-up meeting but received no response from the Applicant.
	Lease/option completion by D9	15 th February 2022	Solicitors	
<p>We also note the Applicant's comments in their Deadline 8 submissions:</p> <p><i>"The Applicant has offered an Option Agreement whereby the method of acquisition is a General Vesting Declaration. This would allow the landowner to leave agreement of land values in abeyance and allow reference to the Upper Tribunal Lands Chamber if agreement cannot be reached, while still allowing other terms to be agreed and set out in the Option agreement"</i></p> <p>Contrary to what the Applicant states, Davison & Co have not to date seen terms for such an Option Agreement with the proposed GVD acquisition method. We invite urgent engagement with the Applicant and clarity</p> <p>(a) as to what specifically is proposed and</p> <p>(b) how this method would be compatible with the landowner's key objective of reserving suitable rights over such land for the purposes of the proposed development of the retained land?</p> <p>Davison and Company (Great Barford) Ltd echo the ExA's concerns in their letter of 17th January 2022 that only limited progress had been made generally in negotiations. All of the documentation and required actions are with National Highways, who have quickly fallen behind the programme they set themselves in the agreed timetable.</p> <p>The ExA has also requested the Applicant to <i>"ensure that every effort is made to maximise the remaining time available during the Examination to progress, and where possible conclude negotiations"</i>.</p> <p>Davison & Co are ready to work urgently and collaboratively in order to conclude negotiations prior to the end of the Examination but will make full submissions commenting on the matter if agreements are not concluded by the final date for submission.</p> <p>We look forward to hearing from the Applicant as a matter of urgency.</p>				

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	<p>The Applicant instructed solicitors on 3 February 2022 to draft the Borrow Pit Lease. This was communicated to the Landowner on 4 February 2022. Contact details of the Applicant's instructed solicitors were provided to the landowner's Land Agent on 15 February 2022.</p> <p>The Applicant responded to the Landowner regarding the reserved rights on 4 February 2022 and on the 14th of February to confirm that reserved rights could not be granted as the land in question is required for essential mitigation purposes.</p> <p>The Applicant discussed the Option Agreement Fee with the Landowner's Agent in a phone call on 7 October 2021. The Landowner's Agent did not consider there was sufficient time to agree land values with the Applicant before the end of examination. The Applicant proposed that a General Vesting Declaration could be used as the method of acquisition and this would allow land values to be agreed at a later date. This was followed up in a phone call on 22 October 2021 where the Landowner's Agent confirmed the method of acquisition as a GVD may be acceptable to their client. However, in subsequent drafts of the Heads of Terms for the option Agreement this has been amended to a traditional conveyance. The Applicant wrote to the Landowner's Agent on 15 February 2022 to further clarify how the Option Agreement would work if the method of acquisition was a General Vesting Declaration.</p> <p>In a phone call with the Landowner's Agent on 9 December 2021 the revised timetable was agreed, subject to being able to agree values. Without an agreed land value the Applicant is unable to complete the conveyance and therefore take title to the land: this introduces unacceptable delays to the program of works. The Applicant is currently awaiting the Landowner's opinion of value for the subject land.</p> <p>The Applicant wrote to the Landowner's Agent on 15 February 2022 to answer points (a) and (b) which are set out in the second paragraph underneath the table in the submission above which relate to:</p> <ul style="list-style-type: none"> (a) What specifically is proposed – the Applicant set out that an option agreement would work if the method of acquisition was a general vesting declaration and awaits a response on this point. (b) How this method would be compatible with the landowner's key objective of reserving suitable rights over such land for the purposes of the proposed development of the retained land. The Applicant explained that it would not be possible to grant rights over this land since it would not be compatible with the intended use of the land for essential mitigation.

REP9-049 – East West Rail Company

Reference Number	Interested Parties Submission/Applicant's Comments
<i>Table 1: EWR Co's comments on the Applicant's responses to the Examining Authority's Third Written Question</i>	
EWR Co's comment on Applicant's Response to Q3.5.2.2: Proposed Draft Protective Provisions	
REP9-049a	<p>1 - Applicant's Response to Q3.5.2.2(a) on page 81 of [REP8-014]</p> <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:</p> <p><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 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 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.</i></p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p><i>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>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 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>

Reference Number	Interested Parties Submission/Applicant's Comments
	<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>
Applicant's comments	<p>The Applicant maintains its position regarding the inappropriate nature of protective provisions for EWR as outlined in the Applicant's submissions at [REP6-031] (action no. 7), [REP8-014] and [REP9-023] (Q3.5.2.2). Whilst EWR state that it is in the public interest to minimise the costs of the EWR scheme, this cannot be at the expense of increasing the costs of the A428 Scheme, which would equally not be in the public interest. EWR also state that environmental impacts could be avoided by including protective provisions. However EWR have not been able to submit any evidence of specific instances where impacts would occur or how they could be avoided if these particular protective provisions were included in the DCO. Indeed, the protective provisions sought by EWR go far beyond seeking to address these particular points or secure cooperation between the parties and are inappropriately based on provisions to protect railway assets which are already in existence. Notwithstanding this, the Applicant is working positively with EWR to finalise the cooperation agreement. This is not a matter for the Examination because no specific evidence has been submitted to demonstrate that any specific impacts would occur to necessitate its consideration by the ExA.</p>
REP9-049b	<p>2 - Applicant's Response to Q3.5.2.2(b) on page 81 of [REP8-014]</p> <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:</p> <p><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 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>

Reference Number	Interested Parties Submission/Applicant's Comments
	<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> <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>
Applicant's comments	<p>Please see the Applicant's response to REP9-049a above.</p> <p>To additionally clarify, PINS Advice Note 15, paragraph 4.2 states:</p> <p><i>"Where the Applicant is not proposing to include draft Protective Provisions for a Statutory Undertaker that has been identified as such by the Inspectorate (under Regulation 11 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017), the Applicant needs to ensure that the Consultation Report explains why Protective Provisions for that Statutory Undertaker are not sought or required."</i></p> <p>As can be seen from Appendix O to the Consultation Report [APP-056], EWR have not been identified as a Statutory Undertaker under Regulation 11. Accordingly, the Applicant is under no direct obligation to provide protective provisions for EWR or explain why such protective provisions are not required. The Applicant has already gone beyond what is strictly necessary under the guidance to engage with EWR and attempt to ensure proper planning in the public interest through a cooperation agreement.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>Whilst an entity does not necessarily need to be a statutory undertaker to have apparatus protected by protective provisions within a DCO, it does need to have apparatus to protect. The stated aim of EWR's draft protective provisions is to create a mechanism for coordination between the two schemes. Protective provisions are an inappropriate way of implementing this mechanism and EWR could and should have provided a more suitable alternative. In the absence of any specific evidence relating to the adverse impacts that may occur without protective provisions in place for EWR, the Applicant simply cannot expose itself to criminal sanctions for a potential breach of provisions against which it has no visibility. Protective provisions, by their very nature, set a one sided obligation on the part of applicants. This is because they are designed to protect existing apparatus of statutory undertakers. Therefore, it is not possible to create a truly collaborative arrangement on the face of the Order.</p> <p>Accordingly, a route for coordination between the schemes outside of the Order is a much more practical way forward. The Applicant has provided a suitable alternative to protective provisions and is progressing negotiations of a cooperation agreement which seeks to navigate interfaces between the two schemes in a way that is mutually conducive for the public interest.</p>
REP9-049c	<p>3 - Applicant's Response to Q3.5.2.2(c) on page 82 of [REP8-014]</p> <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:</p> <p><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>

Reference Number	Interested Parties Submission/Applicant's Comments
	<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>
Applicant's comments	<p>Please see the Applicant's response to REP9-049a and REP9-049b above.</p> <p>Additionally, the Applicant has provided a response regarding the Able Marine Energy Park Development Consent Order 2014 at [REP9-023]. To summarise, the Protective Provisions which C.GEN secured in the Able Marine DCO included the protection for an existing railway. There was also close alignment in terms of the timing of those 2 schemes. The Able Marine DCO was made on 13 January 2014 but did not come into force until 29 October 2014. The North Killingholme DCO was made on 2 October 2014 and came into force before the Able Marine DCO on 2 October 2014. In relation to the current Application, EWR Co has no assets to protect and has not even reached the Preferred Route Announcement stage so as to identify the location of any future potential assets. There are no existing assets which EWR can seek to protect.</p> <p>As outlined in response to REP9-049b above, the draft protective provisions provided go beyond securing joint working and management of interfaces and seek to provide one-way protection to EWR. For example, the definition of "specified work" refers to any work within 15m of the EWR route alignment, the "EWR route alignment" includes the EWR project route alignment which merely needs to be confirmed by a preferred route alignment announcement (PRA). Therefore, works on the A428 Scheme could be delayed or altered (at significant cost to the Applicant) in the event that they come within 15m of the EWR PRA. As no such PRA has yet taken place, it is impossible for the Applicant to plan for any such instances when it could be deemed to be carrying out a "specified work" and consequently risks incurring significant delays and costs at public expense.</p> <p>The Applicant has maintained a consistent position that whilst it is open to cooperating with EWR, protective provisions are not appropriate. Once supplied with the documentation EWR proposed, the Applicant quickly provided an alternative mechanism for joint working between the parties and is making positive progress with negotiations of a cooperation agreement.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
REP9-049d	<p>4 - Applicant's Response to Q3.5.2.2(d) on page 82 of [REP8-014]</p> <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:</p> <p><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 before the Examination to address these key interfaces in the public interest are those of EWR Co.</p>
Applicant's comments	<p>The Applicant has already commenced its detailed design process for the Scheme. There is presently insufficient detail with regards the EWR Scheme for this to be expressly incorporated at this stage. The Applicant (as a publicly funded body) cannot be committed in a statutory document with criminal sanctions to accommodate a scheme at such an early stage in the development process and without any statutory standing. The Applicant is working positively with EWR to finalise the cooperation agreement, which forms the most appropriate mechanism through which the two schemes may interface moving forward.</p> <p>No specific benefits associated with the inclusion of provisions for the protection of EWR have actually been identified by EWR. Such purported generalised benefits are entirely dependent on the eventual scheme that is taken forward by EWR and when this happens, it is entirely possible that there could be no benefits at all. It is in the interests of both parties to work together, rather than incorporating a one-way mechanism through protective provisions. The cooperation agreement has been proposed by the Applicant and is being negotiated between the parties. Whilst not a policy requirement, the Applicant is seeking to embrace the benefits of coordination between the schemes where possible and considers that a cooperation agreement is the most appropriate mechanism to achieve this.</p>
REP9-049e	<p>5 - Applicant's Response to Q3.5.2.2() on page 82 of [REP8-014]</p> <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:</p> <p><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>

Reference Number	Interested Parties Submission/Applicant's Comments
	<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>
Applicant's comments	<p>Please see the Applicant's response to REP9-049a and REP9-049b above.</p> <p>Paragraph 95(3) would allow the Applicant to transfer the benefit of the DCO to EWR without the Secretary of State's consent.</p> <p>EWR is not a statutory undertaker for the purposes of this Scheme. EWR does not presently hold and is not anticipated to hold at the time construction of the A428 Scheme commences, any apparatus. The other entities listed in Article 11(5) are statutory undertakers, and they are listed against specific works to their own existing assets where the Applicant expects them to undertake the works (for example, diversion of their own apparatus). This is not comparable to EWR as they are not statutory undertakers and do not have any existing assets which will be affected by the Applicant's works.</p> <p>It should be noted that this does not preclude EWR carrying out works under the Order, simply that Secretary of State approval would first be required.</p> <p>Notwithstanding this, if the ExA considers that there is a justification for including EWR within Article 11(5), the Applicant has no objection to this.</p>
REP9-049f	<p>6 - Applicant's Response to Q3.5.2.2(f) on page 82 of [REP8-014]</p> <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</p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>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>
Applicant's comments	<p>Please see the Applicant's response to REP9-049c above.</p> <p>Protective provisions, by their very nature, set a one sided obligation on the part of applicants and are designed to protect existing apparatus of statutory undertakers. EWR does not have any apparatus to protect. EWR make reference to the established position adopted in respect of Network Rail but fails to acknowledge that this established position is based on the presence of existing apparatus. In the absence of such existing apparatus, the protective provision mechanism is not appropriate or necessary. The Applicant has proposed an alternative reciprocal method between the parties through a cooperation agreement, which is being progressed in earnest by the Applicant.</p>
REP9-049g	<p>7 - Applicant's Response to Q3.5.2.2(g) on page 82 of [REP8-014]</p> <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 negotiations, still stand? If not, provide your proposed amendments.</p> <p>Applicant's Response:</p> <p><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>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 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>

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	<p>The Applicant has not proposed alternative protective provision wording to the Examination because it considers the inclusion of such protective provisions to be entirely inappropriate in the present circumstances. Please see the Applicant's response to REP9-049a and REP9-049b above for further details.</p> <p>Instead of proposing alternative protective provision wording, the Applicant has sought engagement on a cooperation agreement, which more effectively and suitably manages the way in which the two schemes may interact in the future.</p>
REP9-049h	<p>8 - Applicant's Response to Q3.5.2.2(h) on page 82 of [REP8-014]</p> <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, 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:</p> <p><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 or 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>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>

Reference Number	Interested Parties Submission/Applicant's Comments
	<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, 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>
Applicant's comments	<p>Please see the Applicant's response to REP9-049a and REP9-049b above.</p> <p>EWR have not provided any specific evidence or detail of the potential negative impacts on the EWR Project.</p> <p>The purpose and objective of protective provisions is to protect existing apparatus, which is affected by the Scheme, not enhance certainty for delivery of future anticipated schemes, which may bring forward apparatus that interfaces with Works under the Order. Accordingly, the appropriate means of achieving such increased certainty is through the cooperation agreement proposed by the Applicant and currently under negotiation between the parties.</p> <p>EWR's proposed protective provisions do not secure joint working and any public benefits associated with helping to deliver the EWR scheme need to be weighed against the impacts of adding to the construction programme and cost of the A428 Scheme. EWR has not pointed to any evidence that the A428 Scheme will prevent or inhibit the delivery of the EWR Scheme. Adding in the flexibility EWR require to the Order, brings risks for the A428 Scheme including in respect of the construction programme which would delay benefits brought by the Scheme.</p>
EWR Co's comment on Applicant's response to Q3.10.1: Design Development Process	
REP9-049i	<p>9 - Applicant's Response to Q3.10.2.1(a) on page 91 of [REP8-014]</p> <p>Question:</p> <p>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</p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p><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><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> <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>
Applicant's comments	<p>The Applicant anticipates that it will have completed its detailed design well in advance of the EWR Scheme having been consented. The Applicant (as a publicly funded body) cannot be committed in a statutory document with criminal sanctions to accommodate a scheme at such an early stage in the development process and without any statutory standing. The Applicant is working positively with EWR to finalise the cooperation agreement, which forms the most appropriate mechanism through which the two schemes may interface moving forward. The Applicant maintains that the present drafting of Requirement 12 is sufficient to provide controls on the detailed design process for the benefit of key stakeholders.</p> <p>The Applicant cannot facilitate a detailed design process and requirement for engagement beyond consent without incurring substantial costs from delays to construction, at taxpayer expense as well as delaying the benefits that the implementation of the Scheme will deliver.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
REP9-049j	<p>10 - Applicant's Response to Q3.10.2.1(b) on page 92 of [REP8-014]</p> <p>Question:</p> <p>Design development process</p> <p>(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. 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 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>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>
Applicant's comments	<p>Please see the Applicant's response to REP9-049i above.</p> <p>It is not in the public interest to delay the A428 Scheme pending potential future unconfirmed interfaces with the EWR Scheme. The Applicant has provided an alternative mechanism through which the two Schemes can work together moving forward to maintain efficiency by drafting and negotiating a cooperation agreement.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
EWR Co's comment on Applicant's response to Q3.11.6.1: Providing opportunities for NMUs	
REP9-049k	<p>11 - Applicant's Response to Q3.11.6.1(b) Barford Road Bridge on page 109 of [REP8-014]</p> <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 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 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 & Visual Impact Assessment (LVIA) impacts of any proposed crossing."</i></p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<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>
Applicant's comments	<p>The Applicant notes the comments made by EWR Co and has nothing to add.</p>
REP9-049I	<p>12 - Applicant's Response to Q3.17.4.1 on page 143 of [REP8-014] 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 intended layout or function of the proposed Black Cat junction.</p> <p>(See related questions in Protective Provisions.)"</p> <p>Applicant's Response:</p> <p><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 & 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 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>

Reference Number	Interested Parties Submission/Applicant's Comments
	<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> <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> <ol style="list-style-type: none"> 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]; 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; 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; iv. requirement 12 must be amended to secure consultation in respect of the design development process; and 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].
Applicant's comments	<p>To conclude, the Applicant maintains its position regarding the inappropriate nature of protective provisions for EWR as outlined in the Applicant's submissions at [REP6-031] (action no. 7), [REP8-014] and [REP9-023] (Q3.5.2.2).</p> <p>EWR has failed to provide any specific detail or evidence as to the impacts that would occur should the protective provisions not be included within the Order. The Applicant has maintained a reasoned and consistent approach throughout the Examination that by virtue of the variance in the status and progression of the two schemes, it would be inappropriate to provide protective provisions for EWR. Most notably because EWR do not have any apparatus to protect. The Applicant has been highly proactive in pursuing a cooperation agreement with EWR and considers this is the best way that these two publicly funded schemes can work together.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>The Applicant anticipates that it will have completed its detailed design well in advance of the EWR Scheme having been consented. The Applicant (as a publicly funded body) cannot be committed in a statutory document with criminal sanctions to accommodate a scheme at such an early stage in the development process and without any statutory standing. The Applicant is working positively with EWR to finalise the cooperation agreement, which forms the most appropriate mechanism through which the two schemes may interface moving forward. The Applicant maintains that the present drafting of Requirement 12 is sufficient to provide controls on the detailed design process for the benefit of key stakeholders. It is not in the public interest to delay the A428 Scheme pending potential future unconfirmed interfaces with the EWR Scheme. The Applicant has provided an alternative mechanism through which the two Schemes can work together moving forward to maintain efficiency by drafting and negotiating a cooperation agreement.</p>

REP9-054 – Bryan Cave Leighton Paisner LLP on behalf of National Grid

Reference Number	Interested Parties Submission/Applicant's Comments
REP9-054a	<p>This submission is made on behalf of our clients, National Grid Electricity Transmission Plc (NGET) and National Grid Gas Plc (NGG).</p> <p>Deadline 9 of the Examination Timetable in this matter, provides for receipt by the Examining Authority (the "ExA") of comments on responses to ExA's WQ3.</p> <p>The comments set out in this letter are submitted accordingly, in response and follow up to:</p> <ol style="list-style-type: none"> 1. the NGG and NGET response to the ExA's Q3.5.2.1 (ref: TR010044-001744 & 45) (the "NG Response"); and 2. the Applicant's response to the ExA's Third Round of Written Question, in particular Q3.5.2.1 (ref: TR010044-001784 at pages 78-80) (the "Applicant Response"). <p>NGG site-specific interactions</p> <p>As noted in the NG Response, specific interactions between NGG apparatus and the Scheme have been identified. These interactions impact the high-pressure gas pipeline which forms an essential part of the national gas transmission network. The Scheme intersects and/or interacts with the pipeline at four locations. The alignment of Kelpie Marina access road also needs to be finalised to ensure that this does not interfere with NGG's existing land rights.</p>
Applicant's comments	<p>The Applicant and NGG continue to discuss more detailed site-specific protective measures as outlined by NGG with a view to agreeing them outside of the Order. This is without prejudice to the Applicant's view, as previously stated in further comments against this question at [REP9-023] that the protective provisions included on the face of the Order and updated at Deadline 9 [REP9-004] apply to appropriately protect NGG's assets.</p>
REP9-054b	<p>NGET site-specific interactions</p> <p>As noted in the NG Response, specific interactions between NGET apparatus and the Scheme have been identified. These interactions impact the high-voltage overhead power line that forms an essential part of the national electricity transmission network. The Scheme intersects the route of the overhead power line and obstructs/removes access to the towers associated with it. The Scheme will also interact with NGET's planned refurbishment of its apparatus along the Eaton Socon/Wymondley overhead power line.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	<p>The Applicant and NGET continue to discuss more detailed site-specific protective measures as outlined by NGET with a view to agreeing them outside of the Order. This is without prejudice to the Applicant's view, as previously stated in further comments against this question at [REP9-023] that the protective provisions included on the face of the Order and updated at Deadline 9 [REP9-004] apply to appropriately protect NGET's assets.</p>
REP9-054c	<p>Protective measures</p> <p>Protective Provisions have been agreed between NGG/NGET and the Applicant. However, the significance of the site specific interactions identified above, is such that further detail is required on the protection to be afforded of the NGET/NGET apparatus and rights/interests in land. This requirement for further detail and protection is recognised in the Applicant Response at Q3.5.2.1(c).</p> <p>Agreement on these matters is essential to ensuring that NGG and NGET are able to satisfy their statutory duties to maintain an efficient and economical network for the conveyance of gas and electricity and is fundamental to ensuring safety.</p> <p>In particular, NGG and NGET seek assurances and agreement on:</p> <ol style="list-style-type: none"> 1. the alternative and new access routes and rights to enable NGET to access its apparatus; 2. NGET's ability to adequately carry out its statutory duties in undertaking the required overhead power line refurbishment works; and 3. the nature of the protective measures and engineering solutions required in order to adequately protect NGG's high-pressure pipeline and requisite rights/interests in land. <p>The relevant assurances and agreements are sought from the Applicant in respect of both the construction and operational phases of the Scheme.</p>
Applicant's comments	<p>As referred to above and in the previous submissions, the Applicant considers the protective provisions on the face of the Order provide appropriate protection in respect of all potential interfaces between the Scheme and NGET/NGG apparatus, but without prejudice the Applicant will continue to work with NGET and NGG to agree additional detail at this early stage.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
REP9-054d	<p>Progress and update</p> <p>Both the NG Response and Applicant Response recognise that discussions on the above site-specific interactions and protective measures are ongoing between the parties.</p> <p>By way of update, NGG and NGET wish to notify the ExA that since submission of the NG Response and Applicant Response progress has been somewhat limited. Details on the points to be agreed in relation to the identified site-specific interactions were provided to the Applicant's solicitor on 23 December 2021. Whilst it is recognised that the Christmas break followed shortly thereafter, it has nonetheless taken over 4 weeks to receive initial comments, and there remain a number of outstanding issues on which a response is still required on the proposed protective measures.</p> <p>Neither NGG nor NGET object to the Scheme in principle. However, and as the ExA will appreciate, both NGG and NGET are concerned to reach agreement with the Applicant on all outstanding matters sufficiently in advance of the close of the Examination. Both NGET and NGG are doing all that they can in order to facilitate this. It is understood that the Applicant is also endeavouring to respond on all outstanding issues as soon as possible. The Applicant Response anticipates that agreement will be reached by close of Examination and this has been reiterated in recent correspondence. Further, the Applicant's solicitor has provided reassurance that it does not consider there to be any fundamental points of disagreement.</p> <p>However, in light of the limited progress made over the past few weeks, NGG and NGET are becoming increasingly concerned about the ability of the parties to reach agreement before the close of the Examination. NGG and NGET are unable to withdraw their objections to the Scheme until details on the protection of the site-specific interactions have been agreed.</p> <p>Further, in the event that agreement cannot be reached between NGG/NGET and the Applicant before the close of Examination, NGG and NGET reserve the right to make further representations to the ExA in relation to any detailed issues remaining in dispute between the parties.</p>

A428 Black Cat to Caxton Gibbet improvements
Applicant's comments on submissions received at Deadline 9

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	<p>As noted by NG, the Christmas period unfortunately limited the amount of progress which was feasible. Nevertheless, the Applicant's technical specialists have sought to address NG's specific requests and direct discussions have continued between the Applicant's and NG's engineers. For the sake of expediency, the Applicant has sought to issue responses on elements which can be progressed, rather than waiting to provide a full response on all technical matters which continue to be discussed.</p> <p>The Applicant considers the principles between the parties to be substantially agreed and is working to finalise the detail of this with NGET and NGG through the relevant documentation. The Applicant has submitted versions of side agreements with NGET and NGG on 15 February 2022, along with draft plans to be appended, for their approval and await a response.</p>

REP9-056 – Natural England

Reference Number	Interested Parties Submission/Applicant's Comments
REP9-056a	<p>Our comments below focus on the Applicant's 9.54 <i>Barbastelle Bat Surveys and Mitigation Technical Note (Rev 4)</i> and 9.99 <i>Habitats Regulations Assessment Report to Inform Appropriate Assessment</i>.</p> <p>9.54 Barbastelle Bat Surveys and Mitigation Technical Note (Rev 4) [REP8-009]</p> <p>With regard to Table 1 (the potential 40 crossing point locations), for the most part Natural England is satisfied with the Applicant's assessment for scoping out most of the crossing points. The following CP locations are those where we are not sufficiently satisfied:</p> <p>CP14 – Whilst it is accepted that bats were not present on all the transect surveys, the information provided does state that June had a number of passes from 3/4 species of bats and some of these passes were recorded as multiple bats. The Applicant will need to provide further information on what constitutes multiple bats and clarify how the occurrence of multiple bats were taken into consideration to determine the importance of a crossing point and the need for a crossing structure.</p> <p>CP30 (transect 5) – We do not agree that this potential crossing point should have been scoped out of further surveys (i.e., static and/ or crossing point surveys). The habitat connectivity between the north lodge plantation and the woodland north east would appear to be a more natural route for bats to move north into the landscape and towards other woodlands to the north (e.g., the Gorse) than Crossing Point 7, although there is a valid argument for ensuring that both these locations were subject to crossing point surveys. It would also have been beneficial to have included the location of Crossing Point 7 in the transect surveys. With this in mind it is advised that static and CP surveys that occur closest to P3 (transect reference) as shown in Environmental Statement Appendix 8.5 bats [APP-192] are undertaken in 2022. If it is determined that additional surveys are not warranted it will be crucial to ensure that bats are sufficiently and robustly guided to use the crossing point structure (Toseland Road). The habitat creation will need to be sufficiently mature early in the pre-construction phase to provide suitable habitat to use prior to the rest of the habitat fully establishing over the years.</p> <p>CP33 – We do not agree that this crossing point should have been scoped out from further surveys in 2019. However, it is noted that a crossing point survey (CP8), and static detector surveys, were undertaken in 2021 in October (2 surveys) and November 2021 (1 survey). Clarification is required from the Applicant as to what is meant by 'no data' as shown on Figure 5.3 in Report 9.54 <i>Barbastelle Bat Surveys and Mitigation Technical Note (Rev 3)</i> [REP6-027]. It is not clear whether 'no data' means that nothing was recorded, or the equipment failed, or something else.</p>

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	<p>Whilst Natural England still considers a CP structure would be better located leading bats from Pillar Plantation under the scheme rather than the location proposed (West Brook), we do not consider that further surveys are required in this area (other than pre-construction surveys as applicable) as the survey information provided thus far is sufficient to understand how the bats are using the landscape in this area. Again, it is crucial that the habitat is sufficiently robust and mature in the early stages of the project to ensure that bats leaving Pillar Plantation are guided to the underpass rather than continuing to cross the scheme and risk collision (especially given that the road in this location is on an embankment which is more likely to cause collision than if it were in cutting).</p> <p>CP35 and CP38 – The Applicant should provide a definition of ‘defunct’ hedgerow. Whilst the hedgerow (based on aerial survey from Google Maps) shows this hedgerow as sub-optimal, it could be conceived as being comparable to other hedgerows along the route. A defunct hedgerow may well be of some value to bats for commuting, but it would be useful to understand how this definition has been used to describe a hedgerow of minimum value and why bats would not use such a feature for commuting.</p> <p>CP37 – reference has been made to the low bat activity as recorded on Static detector 11, yet CP37 is a significant distance from this static detector. It is therefore not clear how this has been used as a proxy to confirm that CP37 is of little importance to bats. We would welcome clarification from the Applicant on this point.</p> <p>Our previous comments to the Applicant have also questioned why the entire route was not subject to transect surveys. There are some smaller gaps between some transects which we are not particularly about; however, we would like further clarity as to why it was deemed appropriate to not have a continuous survey of the whole route (in terms of transect surveys). Specifically, there is a reasonable gap between transect 3 and 4, between 4 and 5, between 5 and 8 and between 8 and 6. It is noted however that the gap between 4 and 5 was covered in 2021 by a single transect survey. This gap has therefore only been subject to minimal coverage and also requires further justification.</p> <p>Natural England also asked the Applicant to clarify and explain the criteria used to determine the importance of a specific location with regard to number of species and number of bat passes. There are several locations where the number of bat passes is categorised as low activity, but the number of species recorded is high. For example, at a Crossing Point survey the overall activity level may be classified as low to moderate, but 8 species of bat have been observed/heard. It is conceivable to Natural England that this location would be quite important and potentially equate to a ‘high’ activity location given that the maximum number of species recorded was 12 species over the scheme. This would certainly appear to be of greater value than a crossing point survey with only 5 species of bats recorded but categorised as high activity. We would welcome further clarification on this matter.</p>

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	<p>The Environmental Master Plan [REP4-047] identifies habitat creation around crossing structures that have not been designed specifically for bats but that are perceived to be of potential future value to bats. We note that there are several locations where the Masterplan refers to construction lay down compounds/ storage areas which could provide habitat enhancement opportunities for bats, and wider biodiversity net gain, through appropriate restoration and habitat creation post-construction. Natural England would welcome further information from the Applicant regarding the potential to progress environmental enhancements in these areas.</p> <p>Through discussions with the Applicant about bat crossing points, it appears that there are some deficiencies regarding the habitat creation to lead the bats away from the road to 'safer' crossing points. Whilst this will be provided and agreed through the detailed design stages, early consideration should be given to how these will be effective for bats. The Applicant has indicated that they would be willing to progress pre-construction tree planting. Natural England supports this proposal and believes this to be the only way in which to help guide bats to cross in the right places in the early stages pre- and post-construction. High quality habitat, to deliver effective mitigation, takes many years to establish by which time schemes could have already impacted on bats through collision. Whilst we fully support habitat creation for 'future proofing' the scheme, the immediate priority should be on the successful early establishment of effective mitigation to minimise impacts on European Protected Species. Consideration will need to be given to the level of the new route (whether in cutting or embankment) compared to existing levels and the height at which the bats were recorded during the surveys to ensure that the bats can safely cross without the risk of collision. The habitat will need to include substantive tall trees, woodland and hedgerows to facilitate safe movement of bats. Given that it appears unlikely that any additional crossing point structures will be provided, the delivery of appropriate and effective habitat creation, and its long-term maintenance, will be specifically important. Natural England will be pleased to comment on the Applicant's detailed mitigation proposals.</p> <p>In addition to the above, consideration will need to be given to monitoring the effects of the scheme on bats, and the effectiveness of mitigation measures in minimising impacts, during and post-construction. This should include monitoring of the existing survey locations (transects, crossing points and statics), as the baseline, alongside new locations, in order to gauge the effectiveness of mitigation measures and/or the need for additional measures. Ideally Natural England would wish to see a detailed bat monitoring strategy agreed prior to the end of the examination. We will be pleased to review and offer comments on a draft strategy.</p>
Applicant's comments	<p>Response on crossing point survey: The Applicant welcomes the comment from Natural England stating they are satisfied with the Applicant's assessment for scoping out most of the potential crossing points. The Applicant refers Natural England to a previous response in Appendix E of 9.54 Barbastelle Bat Surveys and Mitigation Technical Note (Rev 4) [REP8-009] regarding the purpose of the bat crossing point survey method. This method is designed to assess the effectiveness of crossing structures as mitigation for bats on linear infrastructure schemes. The data are used to determine</p>

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	<p>whether the structures are guiding commuting bats safely over or under roads and, when repeated pre- and post-construction, whether there has been any change in the number of bats using a commuting route (REF 1). There is also no survey guidance requiring the bat crossing point survey method to be undertaken as part of baseline surveys for the ecological assessment of the Scheme (REF1, REF 2, REF 3), although the surveys undertaken do provide additional information on bat activity in the vicinity of the Scheme.</p> <p>Pre-construction surveys are detailed in Section 1.5 of the Biodiversity Pre-commencement Plan [REP8-004]. Monitoring is included in Annex D of the First Iteration Environmental Management Plan [TR010044/APP/6.8v4] at Table D1, submitted at Deadline 10.</p> <p>An outline bat monitoring plan has been developed and is appended to Annex D of the updated First Iteration Environmental Management Plan [TR010044/APP/6.8v4] submitted at Deadline 10, the content of which will be developed further and finalised in the Second Iteration Environmental Management Plan which Natural England will be consulted on. This will include monitoring bat activity at a landscape scale, at pre, during and post-construction using the standard method for transects extending outward from the Scheme and local Scale Survey of Crossing Structures comprising surveys of bats at each crossing structure (REF1). This includes a survey at CP30 as requested where there is no crossing point structure. The aim of the crossing structures survey will be to determine whether they are effectively maintaining the permeability of the road so that bats can continue to use commuting routes and habitats in the surrounding landscape as they did prior to construction, and if they are guiding bats safely over or under the road reducing the risk of mortality through collisions with traffic. The transect surveys will assess bat activity relative to the Scheme at a landscape scale and will allow comparisons between years.</p> <p>Response on individual crossing points:</p> <p>CP14. This is an east-west hedge with two large farm vehicle access gaps in arable fields north and south. There was low activity with a few passes of pipistrelle and Myotis bats recorded, mainly on the June Transect 7 survey, observed as foraging bats mainly around some trees and woodland to the west. Multiple bats shown on the transect figures is defined as 2 or more bat passes at each location and total bat passes were used to assess bat activity that helped determine bat crossing point survey locations and assessing the provision of crossing structures. To clarify the multiple bat passes at CP14, at Point 7 there were 4 passes of a Myotis species and Soprano Pipistrelle along the adjacent north-south hedge; Point 8 comprised 2 passes of Soprano Pipistrelle at the crossing point; and around mature trees to the east of the crossing point there were 2 passes of a Myotis species (Point 9) and continuous foraging for up to 1 minute of a Common and Soprano Pipistrelle bat together. The low activity was such that further survey was not considered necessary at this location.</p>

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	<p>CP30 (Transect 5). Based on the data collected in 2018, the Applicant found there was no requirement to undertake surveys here, particularly with a survey nearby at CP7 along a more established/prominent hedge-line with similar woodland links to the south. Nonetheless, the Applicant notes the request for an initial crossing point survey in 2022 to determine whether additional surveys are warranted at this location and will include it in pre-construction surveys. Updated baseline surveys will be carried out at pre-construction as outlined in Section 1.5 of the Biodiversity Pre-commencement Plan [REP8-004].</p> <p>Early planting to aid movement of bats to crossing locations will be considered and implemented where practicable, taking into account construction requirements and constraints. Where it cannot be implemented in the pre-construction period, planting will be carried out at the earliest practicable stage during construction. Where warranted to aid bats, additional measures such as temporary fencing (e.g. of brushwood construction) will be included in the Second Iteration Environmental Management Plan to encourage bat movements to other habitats and crossing points. Natural England will be consulted on development of the Second Iteration Environmental Management Plan and the Landscaping Scheme.</p> <p>CP33. The Applicant notes the agreement that no further survey is required at this location. Early planting to help guide bats to the nearby West Brook underpass will be considered during detailed design and programming.</p> <p>For clarity "No data", in this case, means that no data were collected at this location in November 2021. As stated in Section 2.6.4 of 9.54 Barbastelle Bat Surveys and Mitigation Technical Note (Rev 4) [REP8-009] no access was permitted to BCP8 after 4 November 2021. This was not a significant limitation as data from additional nights in October that had foraging/ commuting bat activity were collected within suitable conditions for bat activity at this time of year. There was a total of 15 nights survey. Activity at this location in October was very low (up to 3.37 passes per hour, compared to other locations surveyed at the same time which had up to 25 passes per hour).</p> <p>CP35 and CP38. The definition of a defunct hedgerow used here was based on the description in the Phase 1 Habitat survey manual (REF 4) (i.e., a hedge that has no trees and has ten percent or more of its length made up of gaps). Within this largely intensively managed arable landscape, a defunct hedgerow can be used by bats but provides a less suitable commuting feature due to gaps, some of which are extensive. The gaps may limit the effectiveness of the feature to provide navigational cues for some species of bats and increase their exposure to wind and, where applicable, to road lighting and noise. These factors make defunct hedgerows less favourable foraging habitat than well-developed, intact hedgerows.</p> <p>Previous comments for CP37 in Appendix E of 9.54 Barbastelle Bat Surveys and Mitigation Technical Note (Rev 4) [REP8-009] provide the rationale for not prioritising this location for survey, which was based on low bat activity and proximity to the existing A428. It is a hedge between intensively managed arable fields with a link to an isolated farm to the south with a roadside species poor hedge alongside the A428 to the north. It is in a noisy area, with some lighting by</p>

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	<p>vehicles at night. A single Soprano Pipistrelle bat was recorded during four transect surveys at this location (Transect 6). There was low bat activity on Static 11 to the east that was located in similar representative habitat, noting it was approximately 750m from CP37. In addition, subsequent data from 2021 surveys found only low use of the hedge next to the A428 and recorded on the static detector located within 200m of this location. Less than 1 pass per hour was recorded on the static detector (compared to some other locations with >25 passes per hour).</p> <p>Response on gaps between transects: As per standard survey guidance (REF 2) appropriate transect routes were determined during the initial fieldwork based on Phase 1 Habitat survey data that identified the different habitats in the survey area to be impacted by the proposed activities and their assessed suitability for bats. There is no requirement to have a continuous survey of the whole route and the Applicant considers that comprehensive coverage of the whole Scheme was not necessary or proportionate to inform the ecological assessment of the route reported in Chapter 8, Biodiversity [APP-077] of the Environmental Statement. In line with the guidance, the surveys covered a representative sample of the habitats, with the survey guidance stating that habitats identified as having “moderate or high suitability for bats the main focus of the transect surveys” (REF 2). The extent and arrangement of the different habitats on site informed the number and arrangement of transects required to complete the survey. This is also influenced by ease of accessibility and navigation. The gaps between the transects comprised mainly lower suitability arable dominated habitats and were therefore not a priority for survey. Part of one gap (between Transects 4 and 5) was covered in a transect in 2021 (Transect 12) to include additional section of along Gallow Brook (of potential higher value for bats) and retained under Toseland Bridge. This along with data from Transect 5 in 2018 confirmed use of Gallow Brook by bats and justifies planting and fencing to allow continued passage of bats along Gallow Brook and under the Toseland Bridge. The eight transects covered a total length of 38.4 km covering all habitat types present and this was considered proportionate, and representative of habitats present within the Order limits.</p> <p>Response on species and activity: An overall assessment of bat activity along the feature is based on several parameters comprising: habitat suitability of the feature and habitat linkages based on Phase 1 Habitat survey and preliminary roost assessment; transect data at the location 2018/19; data from static detectors (number of species and passes) 2018/19 and other relevant information, e.g., nearby roosts. The number of different species has been taken into consideration where these data are available from static data. It is not possible to use the number of different species at many potential crossing point locations as there was no static data recorded from these locations, although some detail on the number of species was possible from the transect surveys. Where data were available on the number of species, consideration has been given to species diversity in the category of bat activity assigned., Note that number of species in the baseline results also includes species groups/ unknown social calls so potential for duplication (e.g. Common pipistrelle and (Pipistrelle species, that can be either common or soprano pipistrelle). Areas of higher value in terms of species diversity were selected as crossing point survey locations, as follows: Selected for CP surveys: 8 or 9 species at CP1, CP2.</p>

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	<p>7 or 8 species at CP4, CP6, CP7. 7 species at CP3 and 6 species at CP5. Crossing Point Surveys not selected for survey with species data comprised; 6 species at CP7, 9, 11, 12, 13, 14, 17, 18, 19, 20, 24, 25, 27, 28, 29, 30; 5 or 6 species at CP35; 4 species at CP8, 9, 33, 34, 35; and 3 species at CP37, 38, 39, 40.</p> <p>As stated in the assessment, more emphasis is given to activity levels (number of passes) to predict whether there was likely to be regular use by commuting bats, using a threshold level of 10 passes per hour as indicative of commuting activity where bat crossing point survey could be undertaken (REF1).</p> <p>Response on Environmental Masterplan: The Environmental Masterplan [REP9-037] has provided some clarifications and minor amendments to planting and guide fencing around the structures, which aims to improve their use as bat crossing point structures. These changes are listed in the Schedule of Changes to the Environmental Masterplan - Rev 2 [REP9-021]. The lay down compounds/ storage areas are proposed to be returned to their former land-use as they are in temporary possession during construction of the Scheme and do not form part of the permanent Scheme. Hence, any habitat enhancement post-construction would be subject to landowner agreement. The Applicant will engage with landowners during detailed design and construction to discuss opportunities for enhancement in these areas. The Scheme will provide large areas of new habitat created as shown on the Environmental Masterplan [REP9-037] and described in Annex L of the updated First Iteration Environmental Management Plan [TR010044/APP/6.8v4] submitted at Deadline 10, including new grassland, woodland, hedgerow, trees and wetlands.</p> <p>The Environmental Masterplan [REP9-037] has provided clarifications and minor amendments to planting and guide fencing around the structures that aims to improve their use as bat crossing point structures. These changes are listed in the Schedule of Changes to the Environmental Masterplan - Rev 2 [REP9-021] and these and other features shown on the Environmental Masterplan are considered to provide suitable mitigation for bats crossing the Scheme. The Scheme includes five main structures for bat crossing and six other possible structures that could be used for bat crossing. In addition, the de-trunked A428 is effectively a wooded corridor north of Croxton Park from the Cambridge Road junction in the west at Wintringham to Eltisley in the east and is likely to be more suitable for use by bats than at present, due to reduced traffic after construction of the Scheme. The Applicant notes the comments on successful early establishment of effective mitigation and future input to any detailed mitigation proposals. The scope for early establishment will be taken into account during the development of the detailed design and construction programme. Natural England will be consulted on development of the Second Iteration Environmental Management Plan and the Landscaping Scheme. The long term maintenance of habitat is included within Annex L of the updated First Iteration Environmental Management Plan [TR010044/APP/6.8v4] submitted at Deadline 10, and this will be carried forward and developed in the Second and Third Iterations of the Environmental Management Plan.</p>

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	<p>Response on monitoring: The bat monitoring undertaken will be based on best practice survey protocol for linear transport infrastructure projects (REF 1). This will include transect surveys along the Scheme and crossing point surveys at structures as outlined in Table D-1, Annex D of the First Iteration Environmental Management Plan Rev 3 [REP9-009]. Further detail will be provided in a draft bat monitoring plan included in an updated First Iteration Environmental Management Plan at Deadline 10. This will be finalised in the Second Iteration Environmental Management Plan, which Natural England will be consulted on. This will include the monitoring plan for pre-construction surveys for bat activity and subsequent monitoring.</p> <p>REF 1 - Berthinussen, A. and Altringham, J. (2015). WC1060 Development of a cost-effective method for monitoring the effectiveness of mitigation for bats crossing linear transport infrastructure. Final report 2015. University of Leeds.</p> <p>REF 2 – Collins, J. (editor) (2016) Bat Conservation Trust: Bat Surveys for Professional Ecologists: Good Practice Guidelines. Third edition. Bat Conservation Trust, London.</p> <p>REF 3 – National Highways (2019) LA 108 Biodiversity.</p> <p>REF 4 - JNCC. (2010) Handbook for Phase 1 Habitat Survey – a Technique for Environmental Audit. Joint Nature Conservation Committee, Peterborough.</p>
REP9-056b	<p>Appendix 9.60 Updated Bat Surveys 2021 Technical Note [REP5-010]</p> <p>Whilst it is agreed that the scope for surveys in 2021 did not mention the inclusion of transect surveys, it would have been useful for these surveys to have been undertaken to ensure that a full assessment of the baseline results of 2018 were captured.</p> <p>Given that all the surveys undertaken for the scheme span over different 5 reports/ technical notes, and to date this information has not been pulled together into a single document (for example updating Volume 6.3 Environmental Statement Appendix 8.5: Bats [APP-192]), Natural England asked the Applicant to provide a breakdown in a table format to assist with understanding and consolidate the different surveys. This table has been very useful in formulating Natural England's response to information submitted for Deadline 8, but for completeness it would be beneficial to Natural England and other interested parties if a single document can be provided as soon as practicable.</p> <p>3.7.5 – it is stated that bat activity transects were not possible for transect 11 (access denied) but there is no proposal to undertake any additional transect surveys at location 11 in 2022. Clarification is required to identify the location of transect 11 and why this was particularly selected for surveys in 2021.</p>

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	<p>The report further states that the remaining 3 transects (9, 10 and 12) provided representative coverage of habitats across the site and therefore the absence of transect 11 data was not considered to be a significant limitation. Natural England agrees that in respect of the southern part of transects 9, 10 and 12 but cannot make comment on whether transect 11 was in a representative location. It should be noted that Table 1 states the purpose of the additional surveys was to refresh data to check similar species/ numbers as reported in baseline data (and also to capture information from a previously un-surveyed location) and these were undertaken on transects with relatively high activity levels. Transect 9 is a completely new transect so there is nothing to compare this with. Transect 10 is along the same route as the Transect 7 (from 2019 survey) - although slightly altered at the northern end along the track near Top Farm – so some comparisons can be made between 2019 and 2021 surveys. Transect 12 includes habitat not previously covered by any surveys until 2021 (the gap between Transect 4 and 5 – 2019 surveys) and then only covers part of the east end of transect 5 and with some deviation in transect route east of Toseland Road. To some extent there can be some comparisons made between 2019 and 2021 for Transect 10, and small parts of Transect 12 but one of the main principles behind obtaining baseline data is to understand what is on site and to have a benchmark for measuring effectiveness of mitigation/ compensation measures post-development. It would be useful to understand why Transect 12 was selected on the basis of relatively high activity levels when the transect does not cover the same areas and there are other transects that had more activity than the 2018 Transect 5 surveys, such as Transect 8.</p> <p>5.1.3 of the report [REP5-010] states that the transect and static detector surveys confirmed similar species assemblages and numbers of passes to those found in 2018 and 2019. Natural England is struggling to understand the similarity of species assemblages and number of passes for Transect 10 – 2021 survey and Transect 7 (2018/9) for July, August and September (these are the months that overlap with the 2019 surveys); we believe the species assemblage to be quite different. In July along the main foraging and commuting route exiting St Johns Wood the 2019 surveys showed a significant amount of bat activity and with a composition of 4 different bats species, whereas the same month in 2021 only 2 species of bats were noted and significantly lower activity. The same can be said for August. In September the composition of bat species in the 2018/9 surveys is similar to that of 2019, but activity appears to be greater in the 2021 surveys. These differences are to be expected as the same conditions and timing cannot exactly match previous years and bat activity will change due to external influences, but care should be taken when undertaking these comparisons and making judgements on them especially when it comes to monitoring.</p> <p>With regard to the overall bat passes (static detectors) Plate 1 [REP5-101] 2021 surveys and Chart 2 [APP-192] 2018 appears to show a similar picture in terms of the species present and activity (notwithstanding that there were many more surveys in 2018/9 compared with 2021, so the numbers in the Chart/Table are expected to be different). This chart and</p>

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	<p>Plate would appear to support the comments made about the results being comparable between 2018/19 and 2021, but the transect and static survey data need to be collectively assessed.</p>
Applicant's comments	<p>All of the survey information on bats has been compiled into the Complete Bat Surveys report submitted at Deadline 9 [REP9-030, REP9-031, REP9-032]. The Applicant does not agree that Appendix 8.5, Bats [APP-192] of the Environmental Statement should be updated as the information provided in the compiled report [REP9-030] addresses this. Based on additional surveys undertaken in 2021 for specific purposes, to update roost presence/absence survey, cover some additional transect areas and undertake SAC barbastelle related surveys there is no change to the assessment as provided in Appendix 8.5, Bats [APP-192] of the Environmental Statement.</p> <p>Response on transects: Transect 11 was proposed north of Eltisle, for the purpose of refreshing the data in an area to the east of the Scheme. As data had already been collected in 2019 and with no change in land-use these previous data were considered up-to-date for the purpose of the assessment and therefore not accessing this area was not a significant limitation, particularly with the additional crossing point and static surveys undertaken in late 2021 as reported in 9.54 Barbastelle Bat Surveys and Mitigation Technical Note (Rev 4) [REP8-009].</p> <p>These surveys were not undertaken to provide a direct comparison to other baseline data or to provide a benchmark for measuring effectiveness of mitigation/ compensation measures post-development. They were undertaken to cover areas north of Black Cat/A1 (Transect 9) which had not been surveyed in detail previously and to check if, in general, similar species and numbers of bats were using the area as expected, based on the habitats present and data from other similar areas of the Scheme. Overall, there were no significant changes in bat populations across the Scheme as would be expected within 2 to 3 years with no land-use changes. None of these surveys will be used as a baseline for monitoring.</p> <p>Pre-construction surveys are stated in Section 1.5 of the Biodiversity Pre-commencement Plan [REP8-004]. Monitoring is included in Annex D of the First Iteration Environmental Management Plan [REP9-009] at Table D1.A draft bat monitoring plan including surveys to provide a pre-construction baseline for subsequent monitoring will be included in an updated First Iteration Environmental Management Plan at Deadline 10. This will be finalised in the Second Iteration Environmental Management Plan, which Natural England will be consulted on.</p> <p>Response on results: There is some variation in the species and activity between individual transects surveyed in similar locations. This is to be expected, based on seasonal variations such as climatic conditions and foraging resources, but the number of passes and species recorded were still comparable overall. The updated transect surveys did not find new species or significant differences in bat activity. Findings from these surveys did not change the evaluation of the importance of the Scheme for bat species or the impact assessment. The Applicant notes the comments for future</p>

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	<p>monitoring and agrees that a range of factors should be considered in the interpretation of monitoring (see response on monitoring below [REP9-056d]).</p>
REP9-056c	<p>Overall Comments on the survey effort between 2018 and 2021</p> <p>We are satisfied with the following surveys;</p> <ul style="list-style-type: none"> • Desk Studies; • Preliminary Bat roost assessment from 2018, 2019 and 2021; • The bat roost presence/absence and roost characterisation surveys for structures and trees between 2018 and 2021; • Emergence/ re-entry surveys – 2028, 2019 and 2020; • Hibernation surveys 2019; • Bat activity surveys April/May to October 2018 (transects) and June to October 2019 and April/May to October 2018 (statics) – with the exception of those comments raised above (i.e., transect and static detector surveys July to September 2021); • Bat trapping surveys (advanced licence survey techniques (August, September and October 2018 and July, August and October 2019); • Bat Crossing Point Surveys (with the exception of those mentioned above) May to September 2019 and a combined total of 12 CP surveys undertaken in 2021; • Woodland hibernation suitability surveys (October, November and December 2021). <p>There will of course be a need for pre-construction surveys which will need to include a repeat of previous surveys (where deemed necessary and applicable) if the scheme does not progress within 2 years once permission has been granted.</p>

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Applicant's comments	<p>The Applicant notes and welcomes the comments from Natural England. Pre-construction surveys are included in Section 1.5 of the Biodiversity Pre-commencement Plan [REP8-004]. These will inform monitoring included in Annex D of the updated First Iteration Environmental Management Plan [TR010044/APP/6.8v4] submitted at Deadline 10.</p>
REP9-056d	<p>Monitoring</p> <p>Please see our comments above. To do date there has been very little mention of how the scheme will be monitored to verify the conclusions of the ES and the efficacy of mitigation measures. In order to ensure a position of common ground between the Applicant and Natural England prior to the end of the examination stage, we will need to review proposals for monitoring the effects of the scheme on bats. Without effective monitoring (and identification of remedial action measures should they be required) it will not be possible for the Applicant to make any adjustments should the scheme result in continued impacts to bats (and other species) despite the mitigation / compensation measures in place.</p>
Applicant's comments	<p>Pre-construction surveys are stated in Section 1.5 of the Biodiversity Pre-commencement Plan [REP8-004], and monitoring for bats is included in Table D1 in Annex D of the updated First Iteration Environmental Management Plan [TR010044/APP/6.8v4] and in the outline bat monitoring plan (including updated baseline surveys) appended to Annex D. This will be finalised in the Second Iteration Environmental Management Plan, which Natural England will be consulted on.</p> <p>The crossing point surveys which will be carried out in the pre-construction period will provide the baseline for subsequent monitoring. The survey locations will include all of the sites at which new crossings will be built, to enable comparison with future usage. To monitor bat activity at a landscape scale, the standard method (REF1) is for transects extending outward from the Scheme.</p> <p>REF 1 - Berthinussen, A. and Altringham, J. (2015). WC1060 Development of a cost effective method for monitoring the effectiveness of mitigation for bats crossing linear transport infrastructure. Final report 2015. University of Leeds.</p>
REP9-056e	<p>9.99 Habitats Regulations Assessment Report to Inform Appropriate Assessment.</p> <p>Natural England welcomes submission of the Applicant's Habitats Regulations Assessment Report to Inform Appropriate Assessment (January 2022) [REP8-016]. This follows Natural England's advice (RR-076) that the Applicant's HRA Stage 1 Screening report included insufficient information to rule out likely significant effect on Eversden and Wimpole Woods SAC barbastelle bat qualifying feature. Based on the distance between the SAC and the Proposed Scheme, and the potential 20km foraging distance of barbastelle bats, Natural England advised that further bat surveys should be completed to inform</p>

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	<p>the assessment. We indicated that, based on uncertainty, the HRA Stage 1 Screening should conclude 'likely significant effect' with regard to Eversden and Wimpole Woods SAC and proceed to the Stage 2: Appropriate Assessment.</p> <p>We note that the Applicant has produced this Stage 2 report [REP8-016] 'to inform an Appropriate Assessment for the Eversden and Wimpole Woods SAC, should the Secretary of State consider that it is necessary to undertake an Appropriate Assessment in the determination of the DCO application'. Natural England's view is that the Stage 2 report [REP8-016] includes sufficient detail to inform the requisite Appropriate Assessment and that the report generally accords with the requirements of the Conservation of Habitats and Species Regulations 2017, as amended and relevant caselaw such as 'People over Wind'.</p> <p>We welcome that the Stage 2 report [REP8-016] has made reference to best practice guidance for HRA and bats, and that the assessment is underpinned by robust bat survey data. The Applicant carried out the further bat surveys, requested by Natural England, through Autumn and Winter 2021, and the findings are set out in the <i>9.54 Barbastelle Bat Surveys and Mitigation Technical Note (Rev 4)</i>, discussed above, which has been used to inform the Stage 2 report [REP8-016].</p> <p>The Stage 2 report [REP8-016] indicates that the further bat survey findings support the original conclusion of the NSER that Likely Significant Effects on Eversden and Wimpole Woods SAC can be ruled out at HRA Stage 1. However, as indicated above, the HRA Stage 1 Screening has been completed and should conclude 'likely significant' on account of uncertainty with regard to Eversden and Wimpole Woods SAC. The additional survey data should be tested through a Stage 2 Appropriate Assessment. Natural England's view is that the Stage 2 report [REP8-016] is sufficiently detailed to effectively constitute a Stage 2 Appropriate Assessment.</p> <p>The Stage 2 report [REP8-016] ascertains that the Proposed Scheme will not have an adverse effect on the integrity of Eversden and Wimpole Woods SAC alone, or in-combination with other plans and projects. This is on the basis that SAC barbastelles are not interacting with the area of the Proposed Scheme. Natural England supports this conclusion; however, we recommend that further refinement of the report should consider the following:</p> <ol style="list-style-type: none"> 1. The report confirms that the barbastelle bats that were observed/ heard along the A428 route are not attributed to the SAC barbastelle population. This is not to say that none of the SAC barbastelles use the A428 scheme area as all survey data sets used were relatively small samples. However, the trapping and tagging undertaken by the Applicant in 2021 (7 bats tagged) does show that the barbastelle bats are travelling between 7km and 8km from the SAC and the majority of the bats are travelling in a north-east direction. The tracking did not show any of the bats interacting/ crossing the Scheme's Order Limits reflecting that habitat south of the A428 scheme is generally more favourable and abundant than the habitat north of the Order Limits.

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	<p>2. The trapping and tracking information from EWR [REP6-053] also supports an element of the findings of the Applicant's trapping and tracking surveys in that no barbastelle bats trapped and tagged at the SAC interacted with/ crossed the A428 Scheme's Order Limits. Some of the tracked bats from the EWR surveys did commute and forage around Croxton Park area, which is approximately 1km south of the A428 scheme limits, but none of these bats crossed or came any closer to the Order Limits. Again, this may reflect that the A428 is a barrier to these bats due to lighting and that the habitat is more favourable to the south than to the north of the A428 Scheme.</p> <p>3. Sections 2.1.5 – 2.1.6 of the report reference studies undertaken to identify a Core Area for SAC barbastelle bat activity, to inform South Cambridgeshire District Council's <i>Local Development Framework: Biodiversity – Supplementary Planning Document (SPD)</i> (July 2021). This 'Core Area' is illustrated on Figure 1 in Appendix B. Natural England advises that the data source for this Core Area is unclear and is likely to be over 12 years old: it should therefore not be relied upon for HRA 'likely significant effect' screening. Notwithstanding this we note that all SAC barbastelle roosts and movements recorded through the Applicant's surveys were generally within the 'Core Area' and the 6km Core Sustainance Zone (CSZ) for this species defined by the Bat Conservation Trust.</p> <p>4. Table 2-2 provides useful data to illustrate the wide variations in mean and maxima distances for the home ranges of barbastelles, taken from a review of published studies and research. It is interesting to note that the maximum home range distances of barbastelles at these study sites are all greater than the 8.1km distance between Eversden and Wimpole Woods SAC and the A428 Scheme's Order Limits.</p> <p>5. Section 4.2.5 considers that woodland loss within a radius of 10-15km of the SAC could be of great significance for the viability of the population of Barbastelles at Wimpole. Natural England agrees with this statement which highlights the need for HRA 'likely significant effect' screening to be based on robust up to date SAC barbastelle survey data. This is particularly important in view of the poor-quality foraging habitat surrounding the SAC which may force barbastelles to forage at greater distances.</p> <p>6. The relevance of the information presented in section 4.2.1 is unclear as these sites are a significant distance from Eversden and Wimpole Woods SAC.</p> <p>7. Section 5.5.13 of the report states that '<i>All activity was also within a 5km distance of the SAC that is considered by Natural England as a key conservation area...</i>'. We assume this is a reference to Natural England's Impact Risk Zone (IRZ) for Eversden and Wimpole Woods SAC which is currently set at 5km from the SAC boundary. The IRZs define <u>indicative</u> areas of potential risk for notified and qualifying features of statutorily designated sites, associated with different types of development. Natural England is aware that the IRZ for Eversden and Wimpole Woods SAC is too</p>

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	<p>precautionary, particularly considering the poor-quality foraging habitat surrounding the SAC. Natural England proposes to amend the IRZ to reflect currently available SAC barbastelle survey evidence.</p> <p>8. Section 6.1.10 alludes to Cambourne as a potential barrier to bats travelling further afield. Natural England's advice is that Cambourne includes significant areas of high-quality green space with mixed vegetation which may provide better habitat than adjacent arable fields.</p>
Applicant's comments	<p>The Applicant has taken note of the comments and recommendations provided by Natural England and has revised the Habitats Regulations Assessment: Report to Inform Appropriate Assessment [TR010044/EXAM/9.99v2] to address these points and has re-submitted this at Deadline 10.</p> <p>The Applicant and Natural England agree that:</p> <ul style="list-style-type: none"> a) The A428 Black Cat to Caxton Gibbet Improvements Scheme will not result in an adverse effect on the integrity of Eversden and Wimpole Woods SAC either alone or in-combination with other plans and projects. b) Available information indicates that SAC Barbastelle bats are not currently using habitats along the Scheme for roosting, foraging or commuting. c) The survey data presented therein forms a scientifically robust data set that evidences the absence of a link between the Barbastelle population of the SAC and the effects of the construction and/ or operation of the Scheme.

REP9-057 – Mr and Mrs Chamberlain

Reference Number	Interested Parties Submission/Applicant's Comments
REP9-057a	<p>Many thanks for your letter, I feel sure Mr. Emre Williams will have passed everything over. and we are more than grateful The Planning Inspectorate have allowed us to have a voice. To answer a couple of questions Highways have always been aware of all our tenants and the VOA Officer acknowledged this in his offer letter March 2021. I can only say because of a very small nugget of information that in my opinion things are going on that are less than honest by National Highway.</p>
Applicant's comments	<p>The Applicant strongly refutes any suggestion that it has been anything other than open and honest in all its communications, including with the Examining Authority or Mr and Mrs Chamberlain. Whilst the tenancy of Mr Goodwin was not previously included in the Book of Reference, no information on the tenant or formal tenancy documents have previously been provided to the Applicant. The Applicant has made a reasonable offer of compensation to Mr and Mrs Chamberlain in a letter dated 12 August 2021 (provided to the ExA in the Applicant's comments on the submissions made at Deadline 7 [REP9-027]. Furthermore, the Applicant has sought to ease the concerns of Mr and Mrs Chamberlain with regards to meeting their agent's fees on numerous occasions (see for example the letter dated 20 January 2022 in Appendix A of this document) and has tried, within the bounds of its knowledge and competencies, to offer assistance to Mr and Mrs Chamberlain to ease their ongoing concerns.</p> <p>The Applicant has further offered (see email dated 10th February 2022) Mr and Mrs Chamberlain the opportunity to have an initial, non-committal consultation with a land agent to understand how agents can support them and control costs to within reasonable parameters as referred to by the Applicant in previous correspondence. The Applicant has offered to pay for this consultation.</p> <p>The Applicant received a counter offer from the landowner on 14 February 2022, which is being considered. The landowner is currently considering instructing a Land Agent and the Applicant hopes to commence negotiations shortly with a view to agreeing a settlement in advance of the Scheme.</p> <p>Responses to the Applicant's land referencing process were not received from Mr and Mrs Chamberlain and no tenant details were revealed. The first indication there was a second tenant, was set out in a submission made by Mr and Mrs Chamberlain [REP7-012] at Deadline 7 and also highlighted in an email from The Planning Inspectorate Case Manager on 11 January 2022. The Applicant made contact with Mr and Mrs Chamberlain to obtain the full name and address of their tenant but this information has not been forthcoming to date. As the Applicant had not received a response from Mr and Mrs Chamberlain to provide the contact details and full name of the tenant, the Applicant conducted their own enquiries and</p>

A428 Black Cat to Caxton Gibbet improvements
Applicant's comments on submissions received at Deadline 9

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>identified the full name and address of the tenant (Mr Goodwin) and has both spoken with him on the telephone and issued a letter to explain his rights to become an interested party.</p> <p>The Applicant has since contacted the occupier. A call took place on 31 January 2022 to give an overview of the Scheme, and a follow up email was sent to Mr Goodwin directing him to further information on the Applicant's application and provided instructions on seeking professional advice from an independent agent.</p>

Appendix A – Correspondence with Mr and Mrs Chamberlain on 20 January 2022

Anne-Marie Rogers (HE)

From: Anne-Marie Rogers (HE)
Sent: 10 February 2022 16:43
To: [REDACTED]
Subject: RE: A428 - Tenant details

Categories: Tracked To Dynamics 365

Hi [REDACTED] thanks for sending this through, Laura did pass it on, but I was looking for an email directly from you. I now see why I couldn't find it. Apologies, I should have made the connection.

In terms of reaching a 'more sensible solution' it would help me if you could explain what you need. At the moment I can only speculate from your responses to the Examiner that you may object to the valuation received for your property. If this is correct I strongly encourage you to make a counter offer. A land agent can really help here.

Following on from my letter dated 20th January, I wondered if you would be prepared to meet with a land agent to hear first-hand what they can help you with and how an agent can avoid you being left with a bill for their support by ensuring all work is billable. You can choose which agent you would like to meet and would not be committed to engaging any agent as a result of this initial consultation. I will arrange payment, directly with the agent for the meeting.

For your convenience, I can send you contact details for the nearest agent to you, this would be [REDACTED] a [REDACTED]. Whilst I can't recommend any particular agent, I can tell you that [REDACTED] have offices at Wyboston Lakes and like all agents, routinely have these consultations with perspective clients. Should you arrange to meet [REDACTED], you are still free to appoint any other agent or none at all, the choice yours [REDACTED], but I hope that by offering to pay for an initial consultation you can learn more about their services and make a decision from there.

I've given you a leaflet about compulsory purchase previously, but if you follow this link you will be able to read again: [REDACTED]
[REDACTED] The leaflet discusses what you can do if we don't agree on the compensation payable.

I am sorry to see that you feel a complaint may be necessary. Our complaints procedure can be found on the company webpages: [REDACTED]

But for your ease I have cut and pasted the first page, *How to raise a complaint*:

To help us to deal with your issue as efficiently as possible, please provide us with the following information:

- relevant dates
- times
- locations, for example road numbers or junctions, postcodes or marker posts
- what you would like to happen next

Then send it to us at [REDACTED] or phone us on [REDACTED] (local rate call). We're available 24 hours every day.

Our customer contact centre will always try to resolve your complaint at the first point of contact. We aim to respond to all queries within 10 working days. If we're going to take longer, we'll let you know why and when we can reply.

If you prefer to send a letter, the address is:

National Highways
National Traffic Operations Centre
3 Ridgeway
Quinton Business Park
Birmingham B32 1AF

I hope this email answers your questions, but remain happy to respond to any further queries.

I am pleased to see you have support through your Stepson Marc, and sincerely hope that Ken is receiving the care he needs.

Regards

Anne-Marie Rogers, Senior Project Manager
Complex Infrastructure Programme
Highways England | Woodlands | Manton Lane | Bedford | MK41 7LW
Mobile: [REDACTED]
Web: [REDACTED]

From: [REDACTED]
Sent: 08 February 2022 16:39
To: Anne-Marie Rogers (HE) <[REDACTED]@a428.co.uk>
Subject: Fw: A428 - Tenant details

[REDACTED]

Begin forwarded message:

On Tuesday, January 25, 2022, 1:40 pm, pat [REDACTED] wrote:

Hi Laura

[REDACTED]

Kind regards

[REDACTED]

[REDACTED]

On Tuesday, January 25, 2022, 10:18 am, Laura Crumpton (Aecom)

<[REDACTED]@a428.co.uk> wrote:

Dear [REDACTED],

That's great thank you very much

Thanks

Laura

From: [REDACTED]
Sent: 24 January 2022 21:56
To: Laura Crumpton (Aecom) <[REDACTED]@a428.co.uk>
Subject: Fwd: A428 - Tenant details

Dear Laura

[REDACTED]

hope this helps

regards

[REDACTED]

-----Original Message-----

From: Laura Crumpton (Aecom) <[REDACTED]@a428.co.uk>

To: [REDACTED]

Sent: Wed, 12 Jan 2022 10:29

Subject: A428 - Tenant details

Dear [REDACTED]

I hope this finds you well.

Following your response to the planning inspectorate at deadline 7 we have noted that there is a mention of another tenant, Mr M Goodwin. We need to contact them in order to allow them to be part of the DCO process as part of our requirements within

this process. We were not aware of this tenant before as never received a completed request for information back from yourselves which were issued by post and via email on 21.03.19.

Would you possibly be able to provide the tenants full name and contact details (mailing address would suffice) so we can make contact with them?

Kind regards

Laura Crumpton

A428 – Black Cat to Caxton Gibbet Improvements

Land & Property | National Highways | Woodlands | Manton Lane | Bedford | MK41 7LW

Mobile: [REDACTED]

E-Mail: [REDACTED]@a428.co.uk

Working on behalf of National Highways

National Highways Customer Contact Centre - [REDACTED]

[REDACTED]

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National Highways Company Limited | General enquiries: [REDACTED]
[REDACTED] | **National Traffic Operations Centre, 3 Ridgeway, Quinton Business Park, Birmingham B32 1AF** | <https://www.gov.uk/government/organisations/highways-england> | info@highwaysengland.co.uk

Road Project: [REDACTED]
[REDACTED]

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[REDACTED] | **National Traffic Operations Centre, 3 Ridgeway, Quinton Business Park, Birmingham B32 1AF** | <https://www.gov.uk/government/organisations/highways-england> | info@highwaysengland.co.uk

Road Project: [REDACTED]
[REDACTED]

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