

# A428 Black Cat to Caxton Gibbet improvements

TR010044

Volume 8

8.14 Statement of Commonality for Statements of Common Ground

Planning Act 2008

Rule 8(1)(e)

Infrastructure Planning (Examination Procedure) Rules  
2010

February 2022

Infrastructure Planning

Planning Act 2008

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

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

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# 1 Introduction

## 1.1 Purpose of this Document

- 1.1.1 This Statement of Commonality for Statements of Common Ground (this Statement) relates to an application made by National Highways (the Applicant) to the Planning Inspectorate (the Inspectorate) under Section 37 of the Planning Act 2008 (the 2008 Act) for a Development Consent Order (a DCO). If made the DCO would grant consent for the Applicant to undertake the A428 Black Cat to Caxton Gibbet improvements (the Scheme). A detailed description of the Scheme can be found in Chapter 2, The Scheme **[APP-079]** of the Environmental Statement.
- 1.1.2 This Statement has been prepared to provide the Examining Authority (ExA) with the current position on Statements of Common Ground (SoCG) between the Applicant and prescribed consultees, statutory undertakers and Interested Parties (other parties) in relation to the Scheme.
- 1.1.3 This Statement also provides the final position on the commonality on specific points between SoCG at Examination Deadline 10 on 15 February 2022.

## 2 Structure of Statements of Common Ground

- 2.1.1 To ensure consistency in the approach taken to documenting matters agreed, matters subject to further negotiation or matters not agreed, each of the SoCG adopts a standard format in order to provide clarity to other parties and ultimately the ExA.
- 2.1.2 Each SoCG has the following structure:
- a. Section 1: provides an introduction to the SoCG and a description of its purpose.
  - b. Section 2: states the engagement that has occurred between the Applicant and other Party.
  - c. Section 3: sets out any issues that have arisen, reporting on the status of each issue, i.e. whether it is agreed, still under discussion or not agreed and any remaining actions (as this is the final version, the status of each issue will either be confirmed as agreed or not agreed but this does not preclude ongoing engagement with the relevant parties, where appropriate, following the end of the Examination).
- 2.1.3 Where relevant, documents not forming part of the Application that are referenced in the SoCG and which it is helpful to draw to the ExA's attention, have been appended to the SoCG.

### 3 List of statements of common ground

- 3.1.1 The Applicant is preparing SoCGs with a number of Interested Parties (IPs), as requested by the Examining Authority in their Rule 9 and Rule 17 letter of 2 July 2021, as well as with other IPs, where it considers it is beneficial to do so during the Pre-Examination and Examination stages.
- 3.1.2 The parties which the Applicant has prepared SoCG with are listed in **Table 3-1** below. Chapter 4 lists the SoCGs requested by the ExA that are not being submitted. Further detail about the current position of each SoCG can be found at Chapter 5, **Table 5-1** of this Statement.

**Table 3-1 - List of SoCGs at Deadline 10**

Stakeholder
Local Authorities
CAMBRIDGESHIRE COUNTY COUNCIL, HUNTINGDONSHIRE DISTRICT COUNCIL, SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL (JOINT SOCG)
BEDFORD BOROUGH COUNCIL
CENTRAL BEDFORDSHIRE COUNCIL
Prescribed Consultees
NATURAL ENGLAND
HISTORIC ENGLAND
ENVIRONMENT AGENCY
Statutory Undertakers
NATIONAL GRID
CADENT GAS LIMITED
ANGLIAN WATER
SOUTH STAFFORDSHIRE WATER
Interested Parties
NATIONAL FARMERS UNION
EAST WEST RAIL COMPANY LIMITED

## 4 Statements of Common Ground requested by the ExA which will not be submitted

4.1.1 For those IPs where a SoCG requested by the ExA in the Rule 9 and Rule 17 letter dated 2 July 2021 will not be provided, an explanation is set out below.

### **The Woodland Trust**

4.1.2 The Woodland Trust confirmed to the Applicant on 16 July 2021 that they do not wish to participate in any SoCG in relation to road schemes as they are currently considering their internal and external position on their involvement with transport schemes (particularly road schemes). As a result, The Woodland Trust has placed a temporary moratorium on partaking in any such agreements. The Woodland Trust has confirmed they are therefore unable to participate in any conversations regarding a SoCG on this Scheme.

### **Network Rail**

4.1.3 The Applicant is finalising a two-party overbridge agreement with Network Rail, has received a Letter of No Objection for the design and will provide a formal letter of undertaking for the easements land plots, as requested by Network Rail. This is sufficient for Network Rail to remove their objection and acknowledge they do not require a SoCG, which was confirmed in an email received on 17 August 2021 from Network Rail.

### **Public Health England**

4.1.4 Public Health England (PHE) submitted a letter to the Planning Inspector on 27 August 2021 confirming:

- a. Air Quality: PHE is now satisfied that emissions during the construction process have been considered. The proposals outlined in the supporting documentation and future construction and environmental management plan should be adequate.
- b. Population and Human Health – Access to Eltisley Manor Nursing Home: PHE is satisfied that the mitigation to minimise severance to Eltisley Manor, in addition to the ongoing and proposed liaison with Eltisley Manor adequately addresses their initial concerns.

4.1.5 Based on the above letter, it has been agreed with PHE that an SoCG is not required.

## 5 Summary of current position

5.1.1 This section provides the current position of each SoCG.

5.1.2 **Table 5-1** provides a high-level position and where necessary includes further detail to aid understanding. The high-level positions used in the table are:

- a. **Final Signed SoCG all matters agreed** – The final SoCG has been signed by both parties and all matters are agreed.
- b. **Final Signed SoCG with matters outstanding** – The final SoCG has been signed by both parties and there remain matters outstanding that the Applicant and the other party agree will not be resolved during the Examination.
- c. **SoCG in draft** – The SoCG has been drafted by the Applicant, it has been shared with the other party and comments have been provided. Discussion is ongoing to reach a ‘Final Signed SoCG all matters agreed’ or ‘Final Signed SoCG with matters outstanding’.

**Table 5-1 – SoCG high level position**

Document Reference	Party	Position at Deadline 1 31 August 2021	Position at Deadline 4 4 November 2021	Position at Deadline 5 16 November 2021	Position at Deadline 6 14 December 2021	Position at Deadline 10 15 February 2022
TR010044/EXAM/8.6	CAMBRIDGESHIRE COUNTY COUNCIL, HUNTINGDONSHIRE DISTRICT COUNCIL, SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL (JOINT SOCG)	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	Final Signed SoCG with matters outstanding
TR010044/EXAM/8.5	BEDFORD BOROUGH COUNCIL	SoCG in draft	SoCG in draft	SoCG in draft	SoCG in draft	Final Signed SoCG with matters outstanding
TR010044/EXAM/8.4	CENTRAL BEDFORDSHIRE COUNCIL	SoCG in draft	SoCG in draft	N/A	SoCG in draft	Final Signed SoCG with matters outstanding



Document Reference	Party	Position at Deadline 1 31 August 2021	Position at Deadline 4 4 November 2021	Position at Deadline 5 16 November 2021	Position at Deadline 6 14 December 2021	Position at Deadline 10 15 February 2022
TR010044/EXAM/8.3	NATURAL ENGLAND	SoCG in draft	SoCG in draft	N/A	SoCG in draft	Final Signed SoCG all matters agreed
TR010044/EXAM/8.2	HISTORIC ENGLAND	SoCG in draft	SoCG in draft	N/A	SoCG in draft	Final Signed SoCG with matters outstanding
TR010044/EXAM/8.1	ENVIRONMENT AGENCY	SoCG in draft	SoCG in draft	N/A	SoCG in draft	Final Signed SoCG all matters
TR010044/EXAM/8.9	NATIONAL GRID	SoCG in draft	SoCG in draft	N/A	SoCG in draft	Final SoCG with matters outstanding
TR010044/EXAM/8.13	CADENT GAS LIMITED	SoCG in draft	SoCG in draft	N/A	SoCG in draft	Final Signed SoCG all matters agreed
TR010044/EXAM/8.11	ANGLIAN WATER	SoCG in draft	SoCG in draft	N/A	SoCG in draft	SoCG in draft
TR010044/EXAM/8.12	SOUTH STAFFORDSHIRE WATER	SoCG in draft	SoCG in draft	N/A	SoCG in draft	Final Signed SoCG all matters agreed
TR010044/EXAM/8.7	NATIONAL FARMERS UNION	SoCG in draft	SoCG in draft	N/A	SoCG in draft	Final Signed SoCG with matters outstanding
TR010044/EXAM/8.8	EAST WEST RAIL COMPANY LIMITED	SoCG in draft	SoCG in draft	N/A	Not submitted at this Deadline 6	Final Signed SoCG with matters outstanding

## 6 Commonality

6.1.1 This section of the Statement provides a summary of principal issues covered in the SoCGs and demonstrates where there is commonality in the topics or matters.

6.1.2 The table is presented to show topics covered within the various SoCGs and how these are relevant to each other party and a position for each topic as follows:

	There is broad agreement on specific matters within this general topic area.
	Some matters not fully resolved or some differences of views remain within this general topic.
	There is general disagreement between the parties within this general topic area.

6.1.3 Where a matter is not relevant to the other party, it is not included within the SoCGs and therefore not covered in **Table 6-1** and shown as a blank.

Table 6-1 - Table of Commonality at Deadline 10

Party	Topics																			
	Draft DCO	Protective Provisions	Other Consents and licences	Outline Construction Traffic Management Plan and associated documents	Design and Engineering	Planning Policy	Landscape & Visual Effects	Cultural Heritage	Biodiversity	Habitats Regulations Assessment	Traffic and Transport	Air Quality	Noise and Vibration	Road Drainage and the Water Environment	Geology and Soils	Population and human health	Material Assets and Waste	Cumulative effects	Compulsory Acquisition	Climate
CAMBRIDGESHIRE COUNTY COUNCIL, HUNTINGDONSHIRE DISTRICT COUNCIL, SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL (JOINT SOCG)	Yellow	Green	Green	Yellow	Yellow	Yellow	Green	Yellow	Red	White	Yellow	Green	Yellow	Red	Green	Yellow	Green	Green	Green	Green
BEDFORD BOROUGH COUNCIL	Yellow	Green	Green	Yellow	Yellow	Yellow	White	Yellow	Yellow	White	Green	Green	Red	Green	White	Green	Red	Green	Yellow	White
CENTRAL BEDFORDSHIRE COUNCIL	Yellow	Green	Green	Yellow	Yellow	Green	Green	Green	Green	White	Yellow	Red	Red	Green	Green	Green	Green	Green	Yellow	Green
NATURAL ENGLAND	White	White	Green	White	Green	Green	Green	Green	Green	Green	White	Green	White	White	Green	Green	White	Green	White	Green
HISTORIC ENGLAND	White	White	White	White	Yellow	Yellow	White	Green	White	White	White	White	White	White	White	White	White	Green	White	White
ENVIRONMENT AGENCY	Green	Green	Green	White	Green	Green	White	White	Green	White	White	White	White	Green	Green	White	Green	Green	White	Green
NATIONAL GRID	Green	Green	White	White	White	White	White	White	White	White	White	White	White	White	White	White	White	White	White	White
CADENT GAS LIMITED	Green	Green	White	White	White	White	White	White	White	White	White	White	White	White	White	White	White	White	Yellow	White
ANGLIAN WATER	Green	Yellow	White	White	White	White	White	White	White	White	White	White	White	White	White	White	White	White	Yellow	White
SOUTH STAFFORDSHIRE WATER	Green	Green	White	White	White	White	White	White	White	White	White	White	White	White	White	White	White	White	White	White
NATIONAL FARMERS UNION	White	White	White	White	White	White	White	White	White	White	White	White	White	White	Yellow	White	White	White	Yellow	White
EAST WEST RAIL COMPANY LIMITED	Yellow	Green	White	White	White	White	White	White	White	White	Green	White	White	White	White	White	White	Green	Green	White

## 7 Position as at Deadline 10 (15 February 2022)

7.1.1 This section provides a summary of the final SoCG position between the Applicant and each interested party as at Deadline 10. The individual SoCGs should be referred to for further detail on specific matters.

### **Cambridgeshire County Council, Huntingdonshire District Council, South Cambridgeshire District Council Joint SoCG**

7.1.2 The final SoCG with the Cambridgeshire authorities (Cambridgeshire County Council, Huntingdonshire District Council, South Cambridgeshire District Council) reflects the position of the parties as at Deadline 10.

7.1.3 Positive progress has been made on the legal agreement and, accordingly, provisions of the dDCO are almost all resolved save in relation to: traffic monitoring and biodiversity matters.

7.1.4 In terms of environment matters, the majority of positions for the following topics are agreed:

- a. Air quality.
- b. Landscape and visual effects.
- c. Geology and soils.
- d. Material assets and waste.
- e. Noise and vibration.
- f. Climate.
- g. Cumulative effects.

7.1.5 The main areas not agreed include some matters related to policy and legislation; biodiversity matters, including consideration of bats and biodiversity net gain; cultural heritage matters, including the archaeological mitigation strategy; and road drainage and the water environment matters.

7.1.6 Design and engineering elements of the statement of common ground have made substantial progress in advance of Deadline 10 following the further breakdown of the document. Negotiations between parties over legal agreement matters has brought consensus on most cross-sectional designs to be adopted, previously a principal item of disagreement.

7.1.7 The joint local authorities continue to request further detailed design information and therefore reserve the right to agree items relating to lighting and construction.

7.1.8 Public Rights of Way and Non-Motorised User routes is a key subject of disagreement between parties. Whilst the joint local authorities would like all provision to be inclusive of the entire active travel congregation, the Applicant has not seen sufficient evidence to warrant this be included within the proper scope of the scheme, however maintains the view that proposals do not prevent future provision for any potential usage.

7.1.9 De-trunking and Drainage assets to be maintained also continue to be topics of disagreement between parties.

7.1.10 In terms of traffic and transport issues, the issues previously raised in respect of the strategic model, and the majority of issues relating to local junction models, have now been agreed. The remaining issues that have not been agreed relate to the scope and extent of monitoring both at the pre-construction and operational phases of the Scheme. In terms of mitigation measures, National Highways is limited to the SRN. It is not licenced or funded to bring forward mitigation on the local road network. Additionally, the scheme brings substantial overall benefits to Cambridgeshire therefore National Highways are unable to meet Local Highway Authorities' aspirations for mitigation.

#### **Bedford Borough Council**

7.1.11 The final SoCG with Bedford Borough Council (BBC) reflects the position of both BBC and the Applicant as at Deadline 10.

7.1.12 Provisions of the DCO are largely agreed, save in relation to: the requirement to maintain the register for three years after the completion of the authorised development; the procedure for discharge of requirements; the level of detail contained within the EMP and traffic monitoring.

7.1.13 In terms of environment matters, the majority of positions for the following topics are agreed:

- a. Air quality
- b. Cultural heritage.
- c. Population and human health.
- d. Road drainage and the water environment.
- e. Cumulative effects.

7.1.14 The main areas not agreed include some biodiversity matters; and noise and vibration and material assets and waste matters, particularly in relation to borrow pits.

7.1.15 It is noted that BBC do not have relevant officers to comment on matters related to landscape and visual effects, geology and soils and climate, therefore these topics have not been considered as part of the SOCG.

7.1.16 Collaboration between the parties has seen the majority of design and engineering matters agreed. The two items of disagreement focus around the future East West Rail development and the passive provision for potential future active travel. Whilst the local authority seeks further provision in the design, the Applicant believes that there is sufficient capacity already to accommodate predicted future needs required as a result of the scheme.

#### **Central Bedfordshire Council**

7.1.17 The final SoCG with Central Bedfordshire Borough Council (CBC) reflects the position of both BBC and the Applicant as at Deadline 10.

7.1.18 Provisions of the DCO are largely agreed, save in relation to: the definition of "commence"; traffic monitoring; general highways and air quality matters; noise and vibration and Rectory Farm noise mitigation.

- 7.1.19 In terms of environment matters, positions for the following topics are agreed:
- a. Cultural heritage.
  - b. Biodiversity.
  - c. Landscape and visual effects.
  - d. Geology and soils.
  - e. Material assets and waste.
  - f. Population and human health.
  - g. Road drainage and the water environment.
  - h. Climate.
  - i. Cumulative effects.
- 7.1.20 The main areas not agreed include air quality matters in relation to Sandy Air Quality Management Area (AQMA), and noise and vibration matters related to effects and mitigation at some nearby individual receptors.
- 7.1.21 Engineering and design matters have continued to progress between parties. The majority of items within the statement are now agreed however there are points of disagreement relating to the future East West Rail development and the passive provision for potential active travel.
- 7.1.22 In terms of traffic and transport issues, the issues previously raised in respect of the strategic model, and the majority of issues relating to local junction models, have now been agreed. The remaining issues that have not been agreed relate to the scope and extent of monitoring both at the pre-construction and operational phases of the Scheme. In terms of mitigation measures, National Highways is limited to the SRN, it is not licensed or funded to bring forward mitigation on the local road network, therefore National Highways are unable to meet Local Highway Authorities' aspirations for mitigation. Additionally, the scheme brings substantial overall benefits to the region.
- 7.1.23 The local authority further feels the Outline Construction Traffic Management Plan and associated documents could go further in mitigating the impact of construction vehicle traffic along its roads and would like the Applicant to also adopt a monitor and manage approach to additional traffic flows caused by the scheme. The Applicant has previously explained why it does not monitor and manage the Local Authorities road network, within the Examination.
- Natural England**
- 7.1.24 Natural England have agreed to all positions within the SOCG.
- Historic England**
- 7.1.25 Historic England have agreed to all but two positions within the SOCG. The matters not agreed include:
- a. The policy test related to Brook Cottages where Historic England noted that they cannot carry out the process of weighing the public benefits of the Scheme against the loss of the listed building, this balancing is for the determining authority to make.

- b. Historic England have also noted that they are not in a position to judge the merits of the route options and therefore cannot comment on the justification for demolition of Brook Cottages.

### **Environment Agency**

- 7.1.26 The Environment Agency have agreed to all positions within the SOCG.

### **National Grid**

The protective provisions included in the dDCO for National Grid are agreed between the parties. The Applicant considers the protective provisions offer sufficient protection for National Grid's undertaking for the purposes of DCO consenting. Nevertheless, and without prejudice the Applicant continues to engage with National Grid with a view to agreeing separate side agreements for NGET and NGG. Accordingly, the SoCG does contain areas of disagreement but it is acknowledged that issues are progressing and outstanding differences will be resolved soon. **Cadent Gas Limited**

- 7.1.27 Cadent Gas Limited have agreed to all positions within the SoCG.

### **Anglian Water**

- 7.1.28 The SoCG is currently in draft form and does contain areas of disagreement. The first topic where further discussion is needed and agreement has not been reached relates to the adequacy of wording that the New Roads and Street Works Act 1991 applies in default and that it is only where the 1991 Act does not apply that the protective provisions will apply. The second topic relates to the deferment of renewal provision. The final topic, which the Applicant is awaiting confirmation that it is now agreed, relates to the use of Anglian Water's 'InFlow' system. The Applicant has requested confirmation that is now agreed and the use of the system will not be required as it only relates to new suppliers and not diversionary works. The Applicant will continue to engage with Anglian water to resolve matters concerning Protective Provisions.

### **South Staffordshire Water**

- 7.1.29 South Staffordshire Water have agreed to all positions within the SoCG

### **National Farmers Union**

- 7.1.30 National Highways held a final meeting with the NFU on the 3 February 2022 to discuss the final submission of the SOCG. A number of the matters contained in the SOCG are agreed. However, there are a few positions where matters were still under discussion and a final agreed position was not reached. For some topics, part of the issue has been agreed, in these instances the 'issue' in the SOCG has been split into separate rows to define out the agreed and not agreed points. Matters which are agreed are as follows; habitat mitigation, access routes, powers to survey land (part), balance ponds, private water supplies, dust, irrigation systems, ALO role (part). The matters which are not agreed are as follows; consultation & engagement, accommodation works, construction compound sites, powers to survey land (part), temporary use of land notice period, waste and spoil, field drainage, soils, ALO (part), agricultural use of the A428 defined in the DCO.

### **East West Rail Company Limited**

- 7.1.31 National Highways and East West Rail have now agreed and completed a cooperation agreement which provides an effective mechanism for any potential interactions between the two schemes which may occur. Accordingly, the SoCG demonstrates agreement on all points, save EWR's position that it should be listed at Article 11(5) of the dDCO.