

Subject: Executors of N Alington – Little Barford Estate – A428
From: Bidwells
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SUMMARY OF COMMENTARY AND REPRESENTATIONS AND CONCLUSION OF POSITION STATEMENT ON BEHALF OF THE LANDOWNER

Introduction

Initial discussions were undertaken with National Highways and its agents regarding the Position Statement. Following that initial meeting, there has been no interaction, save confirmation that National Highways will agree a wider overbridge (see Point 3, below).

The Executors raised a number of objections and commentary during the inquiry period on the initial representations made.

1. Interaction with other infrastructure projects and development proposals

There is an opportunity to facilitate other potential infrastructure projects and developments within the design of the A428. In particular, the route crosses the potential alignments of East West Rail and it is close to the proposed location of a St Neots Station on the East Coast mainline. There will be requirements for road connections and other means of sustainable transport. This is also a location where there are a number of development proposals, as the revised Local Development Plans for Central Bedfordshire Council and Bedford Borough Council emerge and there is an opportunity for interaction with the road scheme, particularly as regards public access, cycleways and other means of sustainable transport, with minimal alterations to design.

2. The extent of land take and the method

A substantial element of the land taken is on a permanent basis. Notwithstanding this, this involves some landscape and screening, which is accepted that National Highways will probably be incapable of managing effectively. This is evidenced by ongoing landscaping issues along the A14.

The applicant is seeking a wide range of powers in addition to the proposed land take procedure, including the ability to vary alignment within a margin for deviation. The Executors object to these on the grounds that:

- a) The permanent land take is excessive; and
- b) The ability to take further land as yet unspecified and the proposed means by which land may be taken or returned are inappropriate.

The objection to the latter, based on experience from the A14, where the failure to provide an accurate plan of the scheme prior to land being taken, resulted in the general vesting declaration including land inaccurately mapped or not required or only required for a temporary use. This method is giving rise to a substantial extra burden of cost on National Highways, as well as creating further difficulties for the claimant, particularly in endeavouring to conclude compensation and mitigation works.

The claimant's argument is that land that turns out not to be required can be returned only under the Crichel Down procedure.

Practice on the A14 is showing this to be completely inadequate. There are in excess of 500 parcels of land to be returned and National Highways has confirmed it has the capacity to deal with only 50 per year and so landowners or claimants are being informed that it may take between five to 10 years to resolve. This is completely unacceptable. Furthermore, since the limit for submitting claims to a tribunal, if they are not agreed, is six years, it renders completing claims within that timescale unlikely.

The GVD process, which involves the acquisition of land on the execution of the Deed, is wholly inappropriate for any land where the extent of land or the nature of land use means that the requirement may change. There are alternative means of securing land, including Notice to Treat, which are practically applied on other road schemes, meaning that a final decision of the land permanently acquired could be made when the precise and exact extent of the land requirement was known.

Alternatively, if National Highways persists with the GVD procedure, then the District Valuer or other officers dealing with the claim should be able to agree the extent of surplus land and return this as part of the claim, rather than having to refer to a different process and thus a different department in National Highways, which is patently incapable of dealing with the workload created.

3. Overbridge

The issue of the width of the bridge has been resolved by agreeing that there will be a minimum clearance of 6m between the fence and parapets of the bridge, so as to give sufficient safe access for machinery of 6m wide. Please note, this may require a slightly larger width than 6m in order to give a safe working width.

4. Planting

The Executors object to the extent of woodland planting and the extent of land being permanently acquired for this purpose. In particular, an area of land located to the west of the A428 takes out a block of arable land and disrupts connection between two fields.

The Executors offered an alternative location immediately adjacent to existing woods, which would appear to have achieved the same effect. However, National Highways has not been able to agree this. This is apparently because this wood has been labelled as essential mitigation and, therefore, it has a legal obligation to provide this woodland and to maintain sufficient control to ensure delivery.

It has provided no ecological reason why this woodland should be located where proposed, nor an ecological reason for the other locations being inappropriate.

It is understood that mitigation is required. However, if a claimant has, in effect, no grounds for objection because within the DCO application a woodland has been designated as essential mitigation, there is no avenue for objection or representation.

In this case, since the designation was not confirmed until the representation was considered, the claimant had no opportunity for objecting or discussing the allocation prior to the scheme.

5. Land drainage scheme

The Executors accept that, in respect of any existing underdrainage scheme in the farmland, that a restoration and mitigation scheme can be designed once the drains are exposed and the precise location of particularly the older drainage schemes, which are not mapped, is known. However, there has been no detailed design drawing for general land drainage schemes produced and the Executors have been unable to comment.

Generally, this is symptomatic of a major issue with the DCO process, and as experienced on the A14, in that the acquiring Authority and the contractors appear to be under no obligation to provide a detailed plan of the scheme to be laid. On that scheme, even though the works have been completed for nearly two years, there are no accurate as laid plans and it is evident, whilst trying to conclude the claims for compensation and release of Article 30 Orders, that the actual location of works in a number of instances bears no resemblance to the original outline scheme. Combined with the issue regarding the land acquisition procedure (see 2, above), this creates a major problem for a claimant trying to agree accommodation works, mitigation works and a claim.

6. Conclusion

To conclude, the Executors consider:

1. The design of the A428 scheme should accommodate potential interaction with other infrastructure projects and take account of provisions for other development schemes, which are now emerging as Local Plans progress, particularly as regards sustainable transport links.
2. The extent of land being permanently acquired is excessive. Furthermore, the procedure which is intended to be through the GVD route, and the powers granted to the acquiring Authority to vary alignments without producing a precise design drawing prior to acquisition, is inappropriate and will lead to difficulties in concluding a claim. The Crichel Down procedure, as operated by National Highways, is inappropriate for dealing with land return.
3. The overbridge matter has been agreed in principle, with a bridge of sufficient width to enable safe clearance for 6m wide machinery.
4. The Executors maintain the objection to the location of a block of woodland to the west of the A428 on the grounds that a similar, if not better, ecological result could meet the mitigation objectives, which could be achieved by locating this woodland adjacent to existing wood. The Executors would be willing to grant to rights to do this.
5. The absence of a detailed general land drainage design has made comment difficult. There is a working agreement that any land underdrainage scheme will be reinstated, with the precise design to be ascertained once the location of all drains is determined.

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