



# Department for Transport

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To: National Highways

Date: 13 July 2022

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Dear Sir/Madam

## **Planning Act 2008 (as amended) and the Infrastructure Planning (Examination Procedure) Rules 2010**

Application by National Highways (“the Applicant”) for an Order granting development consent for the A428 Black Cat to Caxton Gibbet Road Improvement scheme. The proposal includes consent to construct a new 16 kilometre dual 2-lane carriageway, including three grade-separated junctions, between the Black Cat roundabout and the Caxton Gibbet roundabout, together with approximately 3 kilometres of tie-in works, and the diversion of a high-pressure gas pipeline (“the Proposed Development”).

### **REQUEST FOR COMMENTS FROM THE APPLICANT**

#### **1. Request for additional information from the Applicant on its assessment of carbon emissions against the carbon budgets**

The Secretary of State notes that the Applicant’s [response of 14 June 2022](#) to his [consultation letter of 31 May 2022](#) set out that construction of the Proposed Development would start in March 2023 and its year of opening would be 2026, in contrast to the traffic modelling in the Environmental Statement which anticipated an earlier construction start date and year of opening. The Secretary of State invites the Applicant to provide an updated version of Table 1-1 contained in its document ‘Cumulative effects of Greenhouse Gas emissions from the Proposed Development’ [[REP9-029](#)] which accounts for these dates.

## **2. Request for additional information from the Applicant on its assessment of emissions against the carbon budgets**

The Secretary of State notes that Transport Action Network [\[REP1-097\]](#) considered that the Applicant included within the construction emissions figures for the third and fourth carbon budgets (included in Table 14-11 of its Environmental Statement [\[APP-052\]](#)) reductions in emissions that arise from land-use change which occurs over the 60-year lifetime of the Proposed Development. The Secretary of State notes that the Applicant [\[REP3-007\]](#) agrees that the positive net balance of carbon due to land-use change would be achieved over the lifetime of the Proposed Development rather than just during the construction phase. The Secretary of State therefore invites the Applicant to confirm, and then to either justify or modify, its approach to assessing construction emissions figures against the carbon budgets.

## **3. Requests for clarification on the drafting of the Order**

The Secretary of State has various requests about the drafting of the Development Consent Order. The following references refer to the Applicant's final draft Development Consent Order submitted on 15 February 2022 [\[REP10-006\]](#).

### **Article 6**

The Secretary of State notes reference to “the temporary construction works” in article 6(1) although this term is not defined. The Secretary of State invites the Applicant to provide a definition of the term “the temporary construction works”.

### **Article 7(2)**

The Secretary of State invites the Applicant to:

- (a) clarify why it considers there is a risk of a breach of a planning permission should article 7(2) not be included, and if so which specific permission(s) this concerns;
- (b) in addition to explaining in general terms why it is thought that implementation of the DCO gives rise to a risk of breach of a planning permission for a different development, set out why such a provision is required given that the temporary planning permission mentioned with reference to article 7(2) in the Applicant's response to the Examining Authority's First Written Questions [\[REP1-022\]](#) is set to expire on 7 October 2022; and
- (c) if the Applicant considers such a breach could occur and that article 7(2) is necessary, provide the name of the relevant local planning authority(ies) and reference number(s) for the permission(s) in question.

### **Schedule 1, Part 2**

The Secretary of State invites the Applicant to explain why each of the ancillary works specified in Part 2 of Schedule 1 would be necessary to allow the authorised development to be carried out.

### **Schedule 2, Requirement 16**

The Secretary of State notes that the Applicant provides a definition of “level 3 record” in Chapter 6 of its Environmental Statement [\[APP-075\]](#) but that the Applicant makes reference to a different definition (provided by Historic England) of “level 3 record” in its Archaeological Mitigation Strategy [\[REP10-036a\]](#). The Secretary of State therefore

invites the Applicant to provide a definition of “the level 3 record” as used in requirement 16 of the draft Order.

### **Schedule 5**

The Secretary of State notes that a number of rows in Schedule 5 contain no text in column (3) ('Relevant part of the authorised development'). The Secretary of State invites the Applicant to explain the lack of inclusion of a Work number in each of these rows.

### **Schedule 7**

The Secretary of State notes that a number of rows in Schedule 7 contain no text in column (4) ('Relevant part of the authorised development'). The Secretary of State invites the Applicant to explain the lack of inclusion of a Work number in each of these rows.

### **The deadline for a response is 25 July 2022.**

Responses to the matters outlined in this letter are best submitted by email to: [A428.Blackcat@planninginspectorate.gov.uk](mailto:A428.Blackcat@planninginspectorate.gov.uk). If you will have difficulty in submitting a response by the consultation deadline, or difficulty submitting a response by e-mail, please inform the Case team.

The responses will be published on the project page for the A428 Black Cat to Caxton Gibbet DCO application on the Planning Inspectorate website as soon as possible after the above deadline at:

<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/a428-black-cat-to-caxton-gibbet-road-improvement-scheme/>

This letter is without prejudice to the Secretary of State's decision whether or not to grant development consent for the A428 Black Cat to Caxton Gibbet scheme, and nothing in this letter is to be taken to imply what that decision might be.

Yours faithfully

Fergus O'Dowd  
Transport Infrastructure Planning Unit