

A428 Black Cat to Caxton Gibbet improvements

TR010044

9.128 Applicant's Responses to the Secretary of State's
Consultation Letter dated 22 June 2022

Planning Act 2008

The Infrastructure Planning (Examination Procedure)
Rules 2010

July 2022

Infrastructure Planning

Planning Act 2008

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

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

**9.128 Applicant's Responses to the Secretary of State's
Consultation Letter dated 22 June 2022**

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Author	A428 Black Cat to Caxton Gibbet improvements Project Team, National Highways

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1 Applicant's Responses to the Secretary of State's Consultation Letter dated 22 June 2022

- 1.1.1 This document has been prepared by the Applicant to set out its responses to the letter dated 22 June 2022 in which the Secretary of State sought further clarification and information in relation to the application seeking development consent for the A428 Black Cat to Caxton Gibbet Improvements scheme.
- 1.1.2 These matters and the Applicant's response to them can be found in **Table 1-1** below.

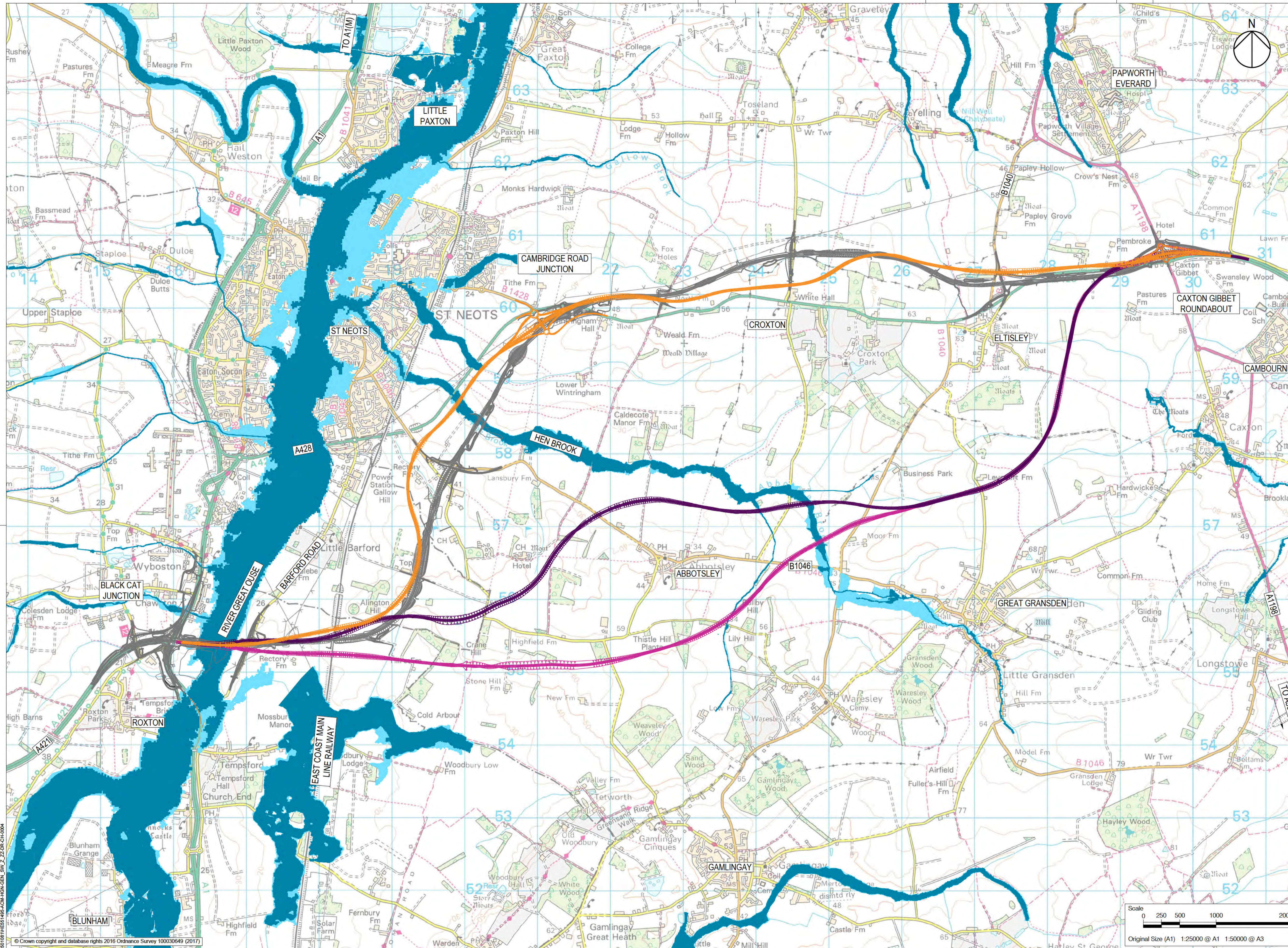
Table 1-1 Applicant's Responses to the Secretary of State's Consultation Letter dated 22 June 2022

No.	Question
1	<p>Request for comments from Interested Parties on the Applicant's response to the Secretary of State and further updates from the Applicant</p> <p>The Secretary of State invites Interested Parties to provide any comments on questions 4 (Request for comments from the Applicant on the implications of changes to the construction programme) and 7 (Request for an update from the Applicant on negotiations with Affected Persons) of the Applicant's response of 14 June 2022 to the Secretary of State's consultation letter of 31 May 2022.</p> <p>Noting this question is addressed to Interested Parties, the Applicant does not provide an update here but is able to advise on progress made with negotiations should this be considered necessary by the Secretary of State.</p>
2	<p>Request for documents from the Applicant to inform the Sequential Test</p> <p>To inform his consideration on the Sequential Test, the Secretary of State invites the Applicant to provide a plan showing each of the alternative route options considered alongside flood zones and other areas of flood risk.</p> <p>In response to the above request, the Applicant has prepared and appends at Appendix A of this document the following plans:</p> <ul style="list-style-type: none"> • HE551495-ACM-HGN-GEN_SW_Z_ZZ-DR-CH-0004 – Sequential Test - Flood Risk (Rivers & Seas) and Route Alternatives • HE551495-ACM-HGN-GEN_SW_Z_ZZ-DR-CH-0005 – Sequential Test - Flood Risk (Surface Water) and Route Alternatives <p>The plans show the Scheme and the route alternatives presented in Figure 3.1 – Route Option Alternatives [APP-093] of the Environmental Statement overlaid on the Environment Agency flood zones and surface water flood risk areas as presented in Figure 13.2 – Water Environment Flood Zone [APP-152] and Figure 6.7 within Appendix 13.4 – Flood Risk Assessment [APP-220], of the Environmental Statement respectively.</p>

No.	Question
	<p>The Flood Risk (Rivers & Seas) and Route Alternatives plan shows how the alignment of the preferred route and its associated junctions (i.e. the Scheme) resulted in the least impact on the two main rivers and their flood plains. All of the options interacted with the River Great Ouse in a similar way. However, the preferred route interacts with Hen Brook once, compared to the alternative routes considered, which each interacted with Hen Brook twice. The Flood Risk (Surface Water) and Route Alternatives plan illustrates that the alternative routes impact more areas at risk of surface water flooding for Hen Brook and its tributaries than the preferred route.</p>
3	<p>Request for confirmation from the Applicant and the Secretary of State for Environment, Food and Rural Affairs (“Defra”) as to consent to acquisition of Crown land from the Secretary of State for Environment, Food and Rural Affairs</p> <p>In response to question 2 in the Secretary of State’s letter of 31 May 2022, the Secretary of State notes from the Applicant’s response dated 14 June 2022 that consent for acquisition of Crown land has been obtained from the Secretary of State for Transport and that plots 1/32b and 1/32c are bona vacantia land in which the Treasury Solicitor has disclaimed the Crown’s title.</p> <p>The Secretary of State notes that Part 4 of the Book of Reference [REP10-014] identifies the following plots in which Crown interests are held by the Secretary of State for Defra: plots 1/19a, 2/8a, 2/8b, 2/8c, 2/8d, 2/8e, 2/8f, 2/12d, 2/17a, 2/20a, 2/20b, 2/20c, 2/20d, 2/27a, 2/28a, 2/29a, 2/30a, 2/31a, 2/33a, 2/34a, 2/35a, 2/36a, 2/37a and 2/37b.</p> <p>The Applicant and the Secretary of State for Environment, Food and Rural Affairs are asked to confirm whether Crown consent has been obtained from the Secretary of State for Environment, Food and Rural Affairs for compulsory acquisition of the relevant Crown interests in the plots listed in Part 4 of the Book of Reference. If so, please can the Applicant provide evidence that the requisite consent has been obtained. If not, the Applicant is asked to provide an update on the steps being undertaken to obtain the necessary Crown consent.</p> <p>The Applicant appends a letter at Appendix B of this document, dated 6 July 2022, confirming that the Secretary of State for Environment, Food and Rural Affairs gives consent pursuant to section 135(1) and 135(2) of the Planning Act 2008 and Article 57 of the DCO [AS-026] as drafted, to the inclusion of provisions within the DCO which would apply to the Property (being the plots shown on the Crown Land Plans [REP4-004] to the extent that they relate to the detail specified in the Application) and that the Secretary of State for Environment, Food and Rural Affairs agrees to the wording of Article</p>

No.	Question
	<p>57 of the DCO [AS-026] as drafted. Whilst an undertaking to confirm the Secretary of State for Environment, Food and Rural Affairs decision on the crown land was given by the government legal department before the end of the examination, the specific letter was not provided with that given by the Secretary of State for Transport but has now been provided (as appended).</p>
4	<p>Request for further updates on outstanding Protective Provisions</p> <p>The Secretary of State notes the response from Anglian Water of 14 June 2022 including a request for a date by which further submissions should be made. The statutory deadline for the decision to be issued is 18 August 2022 and the Secretary of State therefore welcomes any further submissions from Anglian Water as soon as possible and in any event by the deadline for responses.</p> <p>The Secretary of State also invites the Applicant, National Grid Electricity and National Grid Gas Plc to confirm whether an agreement has been reached as soon as possible, and in any event by the deadline for responses.</p> <p><u>Anglian Water</u></p> <p>The Applicant maintains its position as previously stated in the Applicant's response dated 14 June 2022. The Applicant notes that, in addition to the examples provided in the previous submission, the recently made A47 Blofield to North Burlingham Development Consent Order 2022 follows the same approach as the Applicant for this Scheme and the Examining Authority's recommendation report for the Blofield Scheme specifically considers and affirms the approach taken.</p> <p><u>National Grid</u></p> <p>Agreement has now been reached between the Applicant and both National Grid Electricity Transmission Plc and National Grid Gas Plc. The Applicant understands that National Grid Electricity Transmission Plc and National Grid Gas Plc have written to the Planning Inspectorate to confirm withdrawal of their objection to the Scheme. The protective provisions as contained in the dDCO submitted at both Deadline 9 [REP9-004] and maintained in the final dDCO submitted to the Examination [AS-026] are the final protective provisions as agreed between the parties.</p>

Appendix A – Plans of the alternative route options considered alongside flood zones and other areas of flood risk



- ALL DIMENSIONS ARE IN METRES UNLESS DEFINED OTHERWISE.
 - ALL AREAS NOT MARKED AS FLOOD ZONE 2 OR FLOOD ZONE 3 ARE WITHIN FLOOD ZONE 1.
 - THE ROUTE OPTIONS 1, 5 AND 6 WERE IDENTIFIED AT PCF STAGE 1 AND RENAMED THE ORANGE, PURPLE AND PINK ROUTES, RESPECTIVELY, FOR PUBLIC CONSULTATION.
- LEGEND**
- DCO APPLICATION**
- THE SCHEME (REFINED ORANGE ROUTE)
- ROUTE OPTION ALTERNATIVES**
- OPTION 1 (ORANGE ROUTE)
 - OPTION 5 (PURPLE ROUTE)
 - OPTION 6 (PINK ROUTE)
- FLOOD ZONES**
- FLOOD ZONE 2
 - FLOOD ZONE 3

Purpose of Issue

FOR INFORMATION

Client
National Highways
Woodlands
Manton Lane
Manton Industrial Estate
Bedford
MK41 7LW

Development Consent Order Number
TR010044

Project Title
A428 BLACK CAT TO CAXTON GIBBET IMPROVEMENTS

Drawing Title
SEQUENTIAL TEST FLOOD RISK (RIVERS AND SEA) - ROUTE ALTERNATIVES

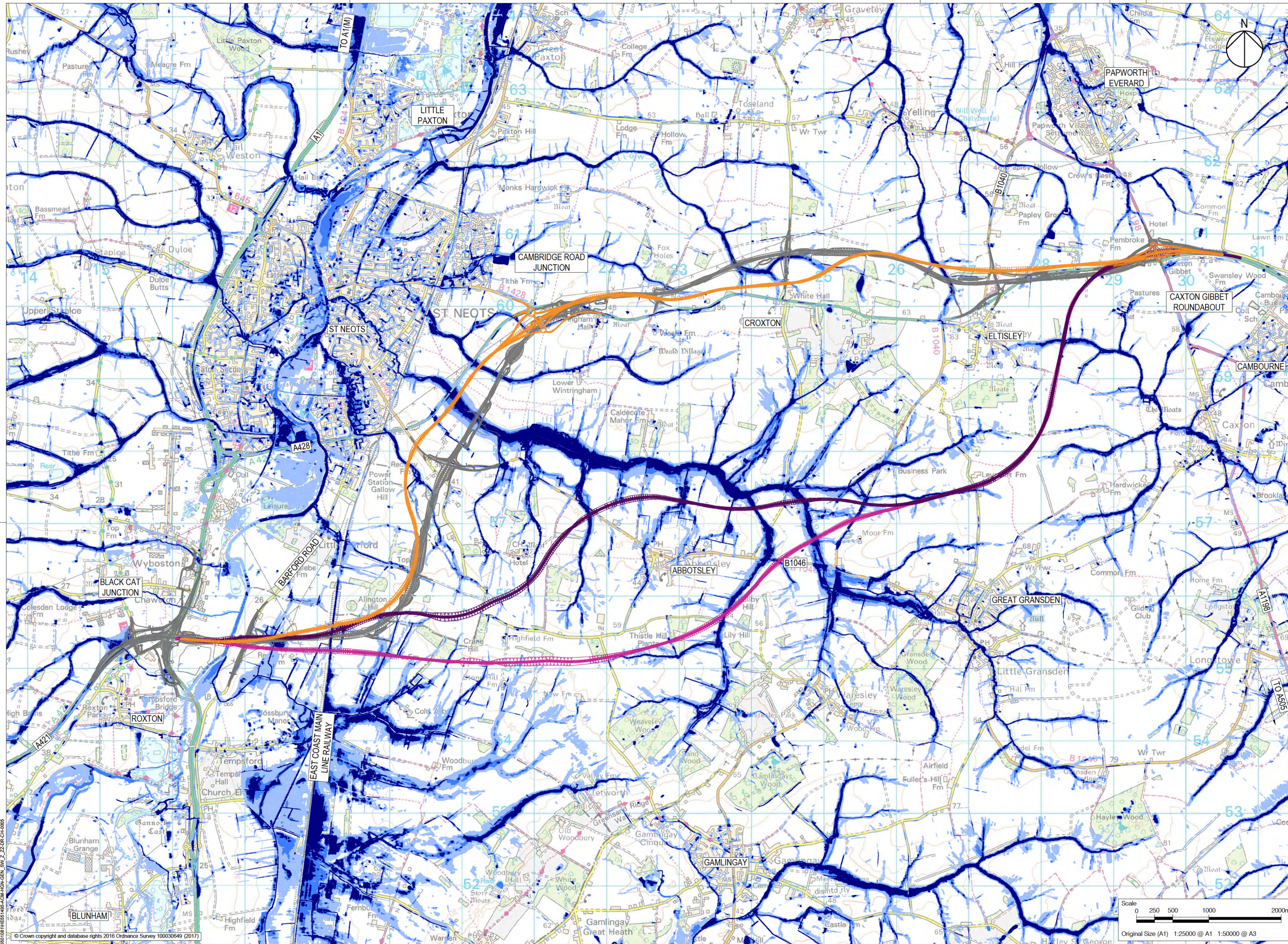
Scale
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Original Size (A1) 1:25000 @ A1 1:50000 @ A3

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First Issue	By	Date	Suffix
	JW	01/07/22	PO1
Revision Details	By	Date	Suffix
	TD		
	Check		

Designed	Drawn	Checked	Approved	Date
	JW	PS	TD	01/07/22
Internal Project No.	Suitability			
60541541	S2			
Scale @ A1	Zone			
	General			
Drawing Number	Originator	Volume	Rev	
HE551495 -ACM	-HGN-		P01	
GEN_SW_Z_ZZ	-DR-CH-0004			
Location	I Type	I Role	I Number	

Plot Date: 06 July 2022 15:41:17
File Name: C:\WORKING\DRW\ACM_EURODESIGN\REVISED\HE551495-ACM-HGN-GEN_SW_Z_ZZ-DR-CH-0004



- ALL DIMENSIONS ARE IN METRES UNLESS DEFINED OTHERWISE.
 - THE ROUTE OPTIONS 1, 5 AND 6 WERE IDENTIFIED AT PCF STAGE 1 AND RENAMED THE ORANGE, PURPLE AND PINK ROUTES, RESPECTIVELY, FOR PUBLIC CONSULTATION.
- LEGEND**
- DCO APPLICATION**
- THE SCHEME (REFINED ORANGE ROUTE)
- ROUTE OPTION ALTERNATIVES**
- OPTION 1 (ORANGE ROUTE)
 - OPTION 5 (PURPLE ROUTE)
 - OPTION 6 (PINK ROUTE)
- FLOOD RISK FROM SURFACE WATER**
- HIGH (>3.33% AEP)
 - MEDIUM (1% AEP - 3.33% AEP)
 - LOW (0.1% AEP - 1% AEP)
 - VERY LOW (<0.1% AEP)

Purpose of Issue

FOR INFORMATION

Client
National Highways
Woodlands
Manton Lane
Manton Industrial Estate
Bedford
MK41 7LW

Development Consent Order Number
TR010044

Project Title
A428 BLACK CAT TO CAXTON GIBBET IMPROVEMENTS

Drawing Title
SEQUENTIAL TEST FLOOD RISK (SURFACE WATER) - ROUTE ALTERNATIVES

Scale
0 250 500 1000 2000m
Original Size (A1) 1:25000 @ A1 1:50000 @ A3

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First Issue	By	Date	Suffix
	JW	01/07/22	PO1
Revision Details	Check		

Designed	Drawn	Checked	Approved	Date
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60541541	S2			
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HE551495 -ACM	-HGN-		P01	
GEN_SW_Z_Z	-DR-CH-0005			
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Appendix B – Letter from the Secretary of State for Environment, Food and Rural Affairs regarding Crown Land



Department
for Environment
Food & Rural Affairs

Head of Corporate
Property
Defra Group Property.
Foss House,
Kings Pool,
York
YO1 7PX

T: 03459 335577
helpline@defra.gov.uk
www.gov.uk/defra

Ms F Everett
Womble Bond Dickson
3 Temple Quay
Temple Back East
Bristol
BS1 6DZ

Your ref:
Our ref:
Date: 6th July 2022

By e-mail [REDACTED]

Dear Ms Everett,

Your client: National Highways Limited (“NSDC”)

Property: The Plots shown on the Crown Land Plans attached to the Application in respect of the A428 Black Cat to Caxton Gibbet Improvements Development Consent Order (the “Property”)

Application for consent pursuant to section 135 of the Planning Act 2008 (“the Application”)

I understand that you are instructed on behalf of National Highways Limited in respect of the A428 Black Cat to Caxton Gibbet Improvements Development Consent Order Application (“the DCO”).

I am instructed to respond on behalf of the Secretary of State for Environment Food and Rural Affairs (SoSEFRA) in respect of the DCO.

The land required for the DCO includes land in which the SoSEFRA has an interest and therefore constitutes Crown land as defined in section 227 of the Planning Act 2008 (“the Act”). We have confirmed that the SOSEFRA is no longer the registered proprietor of the Property, but may hold retained rights in favour of SoSEFRA as historic vendor and adjoining land owner.

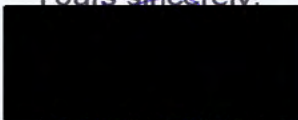
This consent is given on the condition that SoSEFRA will be able to continue to exercise any rights retained over the Property.

I confirm that the appropriate Crown authority (as defined in section 227 of the Act) is the SoSEFRA.

On the basis of the above, I am authorised to confirm the following:

1. The SoSEFRA hereby gives consent pursuant to section 135(1) and 135(2) of the Act to the inclusion of provisions within the DCO which would apply to the Property (to the extent that they relate to the detail specified in the Application); and
2. The SoSEFRA hereby agrees to the wording of Article 57 of the DCO as drafted.

Yours sincerely,



John Richards BSc MRICS
Head of Corporate Property

Authorised signatory for and on behalf of the Secretary of State for Environment Food and Rural Affairs

John Richards BSc MRICS
Head of Corporate Property
Defra Group Property

