



## Meeting note

<b>Project name</b>	A428 Black Cat to Caxton Gibbett
<b>File reference</b>	TR010044
<b>Status</b>	<b>Final</b>
<b>Author</b>	The Planning Inspectorate
<b>Date</b>	2 June 2020
<b>Meeting with</b>	Highways England
<b>Venue</b>	Teleconference
<b>Meeting objectives</b>	Project Update Meeting
<b>Circulation</b>	All attendees

### Summary of key points discussed and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

### Environment Update

The Applicant explained that it is currently working through the Inspectorate's comments on the draft Habitats Regulations Assessment (HRA) to produce an updated report which will be sent to Natural England for review ahead of a series of meetings scheduled to address key matters of interest such as environmental mitigation, statements of common ground and approaches to protected species licensing.

The Applicant also informed the Inspectorate that it is continuing engagement with other key stakeholders such as Historic England and the Environment Agency.

The effect that Covid-19 has had on the progression of certain surveys was discussed.

### Scheme Update

The Applicant informed the Inspectorate that a supplementary consultation period was intended to commence on 24 June 2020 for five weeks with all changes to the scheme being consulted upon. This would include design changes, order limit changes and changes to permanent land take. The Applicant confirmed that all newly affected landowners will be consulted and described the different methods of consultation which would be carried out in light of the current restrictions around public events, due to Covid-19. These include a virtual consultation room with live chat sessions and telephone engagement, and the availability of printed copies of the consultation material if required.

Further pre-application engagement being carried out by the Applicant was discussed, such as additional ecological interest group engagement, a strategic stakeholder board and meetings with local authorities regarding traffic modelling. The Inspectorate asked if Covid-19 could have an impact on the assumptions used in the traffic modelling. The Applicant explained that its approach is based on previous modelling, is well developed and is not directly impacted by Covid-19 in terms of the information it requires. The Applicant informed the Inspectorate that it is awaiting guidance from the Department for Transport (DfT) regarding future forecasts but that it sees the matter being dealt with through sensitivity testing, unless specific guidance is issued by DfT.

The Applicant went on to inform the Inspectorate that Cambridgeshire County Council are undertaking their own independent review of the current model and it anticipates engagement with them over the next few months.

Discussion moved onto the completion of Phase 1 of the trial trenching which the Applicant explained uncovered no unexpected issues. Phase 2 is now progressing and scheduled to complete in August and will include a report on Phase 1 and 2 trial trenching. The Applicant explained that Phase 3 will be related to additional areas identified, primarily for borrow pits. At present, the Applicant explained that it is identifying the scope for trial trenching in those areas and will finalise these with the local authorities. In the meantime, the Applicant said that it maintains a good level of communication with the relevant landowners.

The Applicant informed the Inspectorate that ground investigations have been completed with no fundamental changes to the scheme design occurring, however changes to the foundation design of structures were found and will feed into the overall earthwork strategies.

The subject of the road name was raised, with the Applicant stating that the road number once the project has been constructed could be different from A428 in some parts. The Applicant informed the Inspectorate that they currently envisage any change of the road number being dealt with under Highways England's existing powers. The Applicant was very mindful of the consultation processes being undertaken to date.

The Applicant stated that it is continuing to engage with key stakeholders and was due to have another meeting with East West Rail (EW Rail) to discuss common principles and to set out how they could work together. The Inspectorate enquired as to whether the Applicant knows what role EW Rail might want to play in the examination, considering that they are a significant stakeholder. The Applicant responded that it is its intention to develop a Statement of Common Ground with them but have had no explicit information as to EW Rail's participation in an examination at this stage.

The Applicant asked advice from the Inspectorate regarding a landowner who wants to retain ownership of land and apply a covenant to it, so as to ensure its purpose for landscaping, as it is concerned that such an arrangement would not give the Examining Authority the necessary assurance that the land would remain under the designated purpose. The Inspectorate asked whether the Applicant had sought legal advice on this, to which the Applicant responded that it has and were advised that although it is possible there is unsurety as to whether the degree of confidence provided to the

Examining Authority would be sufficient. The Inspectorate advised that the Applicant seeks legal advice on the matter.

### **Programme Update**

The Applicant informed the Inspectorate that its anticipated submission date is later in 2020 and asked the Inspectorate if there are any delays to be expected in light of potential effects that Covid-19 may have had on the organisation. The Inspectorate explained that it has developed and will begin delivering virtual events imminently and as such, no significant delays would be expected at the time of submission for this application.

The Applicant went on to inform that it would be submitting further draft documents for review on 6 July 2020, specifically the draft DCO, Explanatory Memorandum, Statement of Reasons and Funding Statement.

### ***Specific decisions/ follow-up required?***

The following actions were agreed:

- Next meeting to be scheduled after the Inspectorates draft document advice is provided and the Applicant has carried out supplementary consultation – mid/late August.

**A428 Black Cat to Caxton Gibbet****Section 51 Advice regarding draft application documents submitted by Highways England**

This advice relates solely to matters raised upon the Inspectorate’s review of the draft application documents submitted by Highways England (“the Applicant”), and not the merits of the proposal. The advice is limited by the time available for consideration and raised without prejudice to the acceptance or otherwise of the eventual application. It is provided to assist the preparation of the next iteration.

**Abbreviations**

<b>1961 Act</b>	Land Compensation Act	<b>dDCO</b>	draft Development Consent Order	<b>PA2008</b>	Planning Act 2008
<b>ANxx</b>	Advice Note number			<b>The Inspectorate</b>	
<b>Axx</b>	Article and number	<b>EM</b>	Explanatory Memorandum		Planning Inspectorate
<b>BoR</b>	Book of Reference	<b>ExA</b>	Examining Authority	<b>SoR</b>	Statement of Reasons
				<b>SoS</b>	Secretary of State

**General Drafting points**

1. The Applicant should ensure that when the draft development consent order (dDCO) is finalised for submission all internal references and legal footnotes are checked and that the drafting follows best practice in AN13 and AN15 and any guidance on statutory instrument drafting.
2. A thorough justification should be provided in the Explanatory Memorandum (EM) for every Article and Requirement, explaining why the inclusion of the power is appropriate in the specific case. The extent of justification should be proportionate to the degree of novelty and/ or controversy in relation to the inclusion of that particular power.
3. Notwithstanding that drafting precedent has been set by previous DCOs, whether or not a particular provision in this DCO application is appropriate will be for the ExA to consider and examine taking account of the facts of this particular DCO application and having regard to any views expressed by the relevant authorities and interested parties.

Draft Land Plans			
Ref No.	Land Plan Ref	Extract from Plan Key	Comment/Question
1.	General		A key plan ahead of Sheet 1 would be a positive addition, as advised in Regulation 5(4) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 which states; <i>'Where a plan comprises three or more separate sheets a key plan must be provided showing the relationship between the different sheets.'</i>
2.	General		It would be helpful to include a small 'sheet layout' image in the key on each page so that viewers can see where each sheet fits within the bigger picture (see the Land Plans for M25 Junction 10/A3 Wisley Interchange scheme).
3.	Sheet 2		This sheet could benefit from an inset to enlarge small plots, for ease to the viewer, in particular plot 02/0-2/05 and the small plots below.
4.	Sheet 2		Please ensure that all plots have clear boundaries and are labelled appropriately. For example, there is a very small plot between 02/28/10 and 02/01/65 which is not numbered and, if it is part of 02/28/05, should have an inset to depict the continuation of the land and avoid the closure of the red line boundary.
5.	Sheet 3 & Sheet 11		If using an inset, it would provide clarity for the viewer if the plots within the inset are labelled with the plot numbers they represent.
6.	04/02/16 & 06/02/65		These plots are severed by the close of the red line boundary.
7.	Sheet 6		This plan contains a dotted red line with no description of it in the key. What does this depict?
8.	08/04/11		This plot number points to a red line.
9.	Sheet 16		Do you intend to include a map to show where this series of insets are located within the proposed development?

<b>Draft Works Plans</b>			
<b>Ref No.</b>	<b>Work Plan Ref</b>	<b>Extract from Schedule 1: Authorised Development (PART 1)</b>	<b>Comment/Question</b>
10.	General		As no dDCO has been submitted, the Inspectorate is unable to provide advice on how the works are depicted, in relation to the relevant Schedule of works listed in the dDCO.
11.	General		The colour illustrating the Site Compound and Lay Down Area on the plans is not easily distinguished against the Red Line Boundary of the order limits. In some areas it could be difficult for the viewer to see ie, Sheet 12 of 16; Work No78c.

<b>Draft Consultation Report</b>			
<b>Ref No.</b>	<b>Paragraph/Section</b>	<b>Extract</b>	<b>Comment/Question</b>
12.	General		It is recognised that the Consultation Report is in an early draft form and that Appendices were not able to be provided. It is noted that tables will be included to set out how the pre-application process followed advice and guidance; and a table to demonstrate how the Applicant had regard to consultation responses. The Applicant appears to be intending to explain why the targeted consultation was conducted, the justification for the approach, and how regard was had to the responses. The Applicant is advised to continue revising the document in line with Advice Notes and legislative requirements.

<b>Draft Book of Reference</b>			
<b>Ref No.</b>	<b>Paragraph/Section</b>	<b>Extract</b>	<b>Comment/Question</b>
13.	General		The Applicant is advised to cross-refer to the relevant Article in the DCO, in Part 1 of the Book of Reference or in the Introduction.
14.	Part 4: CROWN LAND interests		The Applicant is advised to note that, as per the DCLG guidance related to procedures for the compulsory acquisition of land, Annex B(2); If provisions to compulsorily acquire such interests are to be included in a development consent order, then the consent of the appropriate Crown authority is needed. It is important that such consent is obtained at the earliest opportunity as the development

Draft Book of Reference			
Ref No.	Paragraph/ Section	Extract	Comment/Question
			<p>consent order cannot be made by the Secretary of State until the consent of the Crown authority is in place.</p> <p>The applicant for a project should ensure that any discussions with the Crown authority are started as soon as it is clear that an interest in Crown land will need to be acquired – i.e. before their application is submitted to the Planning Inspectorate for acceptance.</p> <p>The aim should be to ensure that Crown consent is in place before the application for the development consent order is submitted.</p> <p>If consent is not granted by the time an application is submitted, then the applicant should give an indication of when they expect consent to be received.</p>
15.	General		There are multiple instances where the description in the 'Extent of acquisition use' section does not align with what is depicted on the Land Plans, for instance plots; 1/38/65, 02/22/10 and 03/02/15.
16.	01/29/05 & 01/41/41		No information is provided as to the extent of acquisition use for these plots.

<b>Draft Consents and Agreements Position Statement</b>			
<b>Ref No.</b>	<b>Paragraph/ Section</b>	<b>Extract</b>	<b>Comment/Question</b>
17.			<p>The Inspectorate notes that the Consents and Agreements Table in Appendix A is in draft form.</p> <p>The Inspectorate considers that the powers highlighted for possible inclusion into the draft Development Consent Order, that is a Water Abstraction Licence under ss 24 and 25 of the Water Resources Act 1991, an Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2010, a Flood Risk Activity (Environmental) Permit, and Land Drainage Consent under the Land Drainage Act 1991 should be so included subject to appropriate negotiations with the relevant body and, if necessary, protective provisions.</p> <p>The Inspectorate considers that in addition to these powers Approvals from the Bedfordshire and River Ivel Internal Drainage Board for Works to Rockham Ditch and South Brook and from Cambridge Water/Anglian Water for diversion of underground water main assets also have the potential to be included within the draft Development Consent Order. The Inspectorate would therefore suggest that negotiations are commenced with these bodies over this and any necessary protective provisions to see whether this is possible.</p> <p>The Inspectorate notes that the Consents and Agreements Table includes Sustainable Drainage Scheme Approval. While the Inspectorate considers it unlikely that such consent would be included within a draft Development Consent Order, the subsequent approval body would be Local Lead Flood Authority, not the Local Planning Authority as is currently set out in the Table.</p>

Draft Habitats Regulations Assessment: No Significant Effects Report			
Ref No.	Paragraph/ Section	Extract from NSER (for ease of reference)	Comment/Question
18.	5.1.14 and 5.1.9 (and Tables 5-1 and 5-2)	Natural England's response to the Scoping Report (contained within the Scoping Opinion, p.96) was that the Applicant's HRA Screening should be expanded from an assessment of impacts to Eversden and Wimpole Woods SAC to include an assessment of water-dependent sites namely Portholme SAC and the Ouse Washes SAC, SPA and Ramsar site.	<p>The Applicant has not undertaken screening for the water-dependent sites. The justification given is the same for all sites: the Proposed Development would not have a direct impact on the Great River Ouse as no structures will be built in the river channel; and although the development would introduce a drainage outfall into the watercourse, the water will first pass through an attenuation pond prior to discharge which will settle-out and filter sediments and pollutants. However, the Applicant refers to the potential for the scheme to result in adverse changes in water quality in both construction ("<i>suspended solids and particulates, hydrocarbons and other chemicals</i>") and operation ("<i>runoff toxins could contribute to increased heavy metals</i>") (Table 5-2, 'Emissions').</p> <p>The Inspectorate considers that a full screening exercise should be undertaken for Portholme SAC and the Ouse Washes SAC, SPA and Ramsar site in line with the advice from Natural England in the Scoping Opinion. Should a pathway(s) for significant effects be identified, an appropriate assessment will be required, taking into account any proposed mitigation as applicable, of the effects of the proposed development on these designated sites.</p>
19.	6.1.2	<i>"The screening matrix for Eversden and Wimpole Woods SAC presented in Table 5-1 has considered the potential interactions and relationships between the Scheme and other plans and projects"</i>	<p>The NSER does not provide any detailed justification to support the conclusion of no likely significant in-combination effects and relies on cross reference to this information being provided within the ES. Is it the intention to add more detail to the NSER itself?</p> <p>Did the Applicant intend to refer to Table 5-2 instead of Table 5-1?</p>
20.	Table 5-2 'Emissions'	The Applicant refers to the potential for the scheme to result in adverse changes in water quality in both construction (" <i>suspended solids and particulates, hydrocarbons and other chemicals</i> ") and operation (" <i>runoff toxins could contribute to increased heavy metals</i> ").	<p>See comment number 19.</p> <p>Further down in Table 5-2 'Assessment criteria' it states, "<i>there will be no adverse effects predicted in relation to changes in water quality</i>". Please clarify this inconsistency.</p>

Draft Habitats Regulations Assessment: No Significant Effects Report			
Ref No.	Paragraph/Section	Extract from NSER (for ease of reference)	Comment/Question
21.	Appendix D	Screening matrix	<p>The footnote should refer to a specific paragraph in the report where the evidence can be found.</p> <p>A footnote should be provided to explain the conclusion to exclude in-combination effects, for all the pathways of effect identified, (instead of just greying out the cells without explanation).</p> <p>In the application, the matrices should be provided in Word format to enable the Planning Inspectorate to edit them (see AN10).</p>

## General

1. Where references are provided to other Application documents it would be beneficial to provide the full title inclusive of document reference number. Should further draft documents be provided for review, the Applicant may wish to consider providing a full list of known application documents (for purpose of sign-posting) as well as their respective reference number.
2. [DCLG: Application form Guidance](#), paragraph 3 states: “*The application must be of a standard which the Secretary of State considers satisfactory: Section 37(3) of the Planning Act requires the application to specify the development to which it relates, be made in the prescribed form, be accompanied by the consultation report, and be accompanied by documents and information of a prescribed description. The Applications Regulations set out the prescribed form at Schedule 2, and prescribed documents and information at regulations 5 and 6.*”