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Your ref:

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Contact: Chris Poultney
Telephon 01223 728111
E Mail: Chris.Poultney@Cambridgeshire.gov.uk



**Place and Economy
Transport, Strategy and Funding**

Candice Patten
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol, BS1 6PN

**Box SH1310
Shire Hall
Cambridge
CB3 0AP**

BY EMAIL ONLY

Dear Candice

Application by Highways England for an Order Granting Development Consent for the A428 Black Cat to Caxton Gibbet Road Improvement Scheme: Adequacy of Consultation Response

Thank you for your letter dated 26th February requesting views on the adequacy of the pre-application consultation in respect to the Application by Highways England for an Order Granting Development Consent for the A428 Black Cat to Caxton Gibbet Project. This letter represents a joint response from the Cambridgeshire local authorities, representing Cambridgeshire County Council, Huntingdonshire District Council, South Cambridgeshire District Council, and the Cambridgeshire and Peterborough Combined Authority (hereafter the Authorities).

The Planning Inspectorate (PINS) has invited the Councils to advise whether the developer has complied, in relation to the application, with the following duties under the Planning Act 2008 (as amended) (PA2008):

Duty to consult - PA2008 – section 42

Section 42 requires consultation with certain persons specified in the Act and prescribed in regulations.

Duty to consult the local community - PA2008 – section 47

Section 47 requires applicants to prepare a “Statement of Community Consultation” (SoCC) in consultation with relevant Local Authorities which sets out how the developer intends to consult the local community on its proposals. The developer must then publish the SoCC and undertake statutory consultation in accordance with it.

Duty to publicise - PA2008 – section 48

Section 48 requires that details of the statutory consultation be publicised via a series of notices in the local and national press.

Other sections of the Planning Act are relevant along with the MHCLG’s ‘Planning Act 2008: Guidance on the pre-application process’ (2015), the EIA Regulations (2017), and PINS advice notes 2 and 14.

Consultation

The Authorities are aware that the developer has consulted on a non-statutory basis in 2017, and then carried out two Statutory Consultations in June 2019, and again in July 2020. In addition, the authorities responded to the Scoping Consultation from PINS in May 2019.

The developer's Statement of Community Consultation from June 2019 notes that key objectives include:

- "Encourage the community to help shape the Scheme to maximise local benefits and minimise any downsides
- Help local people understand the potential nature and local impact of the Scheme
- Enable potential mitigation measures to be considered and, if appropriate, built into the Scheme before our DCO application is submitted"

In the Joint Response of July 2019, the Authorities noted that there was limited technical information provided in certain areas, specifically around traffic and environmental information, and on the impact of the scheme. An extensive response was provided to the developer at both Statutory Consultations, and the Authorities understand that the developer's response is now contained in the Consultation Report submitted with the Application, in Appendices U and V, with a separate Appendix W covering some of the traffic modelling issues raised. It is disappointing that this information was not shared prior to the application being submitted as requested by the Authorities and agreed by the developer, and as recommended on page 6 of PINS Advice Note 14, and the approach is noted as not assisting the assessment process. It is hard to see, in the time available, the evidence of how our responses have been addressed and any changes made in response, with much of the detail being contained in the application documents and therefore not yet available. The Authorities have been clear that without sufficient information being shared prior to the submission of the application, we have had to reserve our position on agreeing many matters, so our representations to the Statutory Consultations to date should not be considered a definitive list of issues. Officers look forward to working with the developer to resolve any matters within the application as part of developing the Statement of Common Ground and associated discussions around Requirements, Protective Provisions, and Development Consent Obligations.

Notwithstanding this, the Authorities consider that the developer has consulted on the terms set out in their Statement of Community Consultation. From our review it appears that Highways England has consulted all appropriate Rights of Way and Non-Motorised User groups, including local groups. However, it is difficult to tell from the Consultation Report. It would have been useful to have a table summarising the user groups consulted for easy reference.

The authorities would like to commend the developer on their Statutory Consultation in 2020, which was carried out during the first peak of the coronavirus pandemic. The consultation was one of the first major scheme Statutory Consultations administered and held online to reflect the conditions at the time, but featured innovations which then became widely adopted for future events during the coronavirus pandemic. A 'virtual consultation room' was available and was widely promoted. It was very successful and secured a good level of responses.

Technical Engagement

The authorities have attended many meetings requested by the developer. These have often been presentation style events where the emphasis has been on providing information. Unfortunately, many of the points raised and questions asked by the authorities are recorded but not followed up consistently. A series of Technical Working Groups was set up to discuss detailed matters but haven't met consistently within the last 12 months.

Briefings have been provided on areas such as the transport model, air quality, borrow pits and a scheme walk through .Whilst these have been useful, they have unfortunately not included very much technical detail for the authorities to consider and make informed suggestions and recommendations in respect of scheme development.

The authorities have been extremely clear that they have been willing and keen to progress a number of technical areas in advance of the application being submitted The Authorities have set out some issues that would have been best addressed more fully prior to the application, and how they have affected the soundness of the consultation.

Topic Area	Did it affect the consultation as set out in the Statement of Community Consultation?	Impact
<p><u>Statement of Common Ground</u> The discussion and agreement of a Statement of Common Ground has been limited to one meeting with substantial content in October 2020. A draft document provided by the developer in December 2020 contained limited information and referred repeatedly to the application documents, which haven't been shared. It is disappointing that even key principles have not been discussed and agreed in advance of the detailed and technical issues in the application.</p>	No	Time will be required to agree these areas post-submission.
<p><u>Highways</u> A discussion specific to Cambridgeshire County Council in its capacity as Highway Authority regarding the agreement of Requirements, Protective Provisions and Development Consent Conditions relating to the highway network and adoptable assets resulting from the scheme. This has been requested with the developer but hasn't been addressed.</p>	No	These matters will need to be discussed and agreed post-submission.
<p><u>Traffic</u> Transport modelling and related matters have benefitted from a number of presentation style workshops. The authorities have been clear that there is a need to understand the detail given local concerns and impacts. The strategic model (base year and forecast) has been shared by the developer's consultants, but questions that have been raised have not always been responded to, and the detailed operational models requested have not been provided. These are key to understanding impacts on the local road</p>	No	This will need to be discussed and agreed post-submission.

network.		
The impacts of the scheme and traffic flows on St Neots, the largest market town in Huntingdonshire, need to be fully understand and mitigated where required. Further detail on this would have been helpful to have been provided prior to submission for consideration by the Local Highways Authority and Huntingdonshire District Council / the authorities.	No	This will need to be discussed and agreed post submission.
We note that the developer acknowledges that there is going to be a higher volume of traffic at Girton Interchange but disappointingly does not offer a solution beyond 'monitor and manage'. This remains a crucial matter for the authorities and one that would need further commitment from the developer as part of the statement of common ground discussions.	No	This will need to be discussed and agreed post submission.
<u>Environmental Statement</u> Technical disciplines across the environmental statement including air quality, noise, construction management plan and traffic management, landscaping, borrow pits et al. There have been a number of work package issues covering some individual elements such as ecology, and landscaping but these have been lacking in information to sufficiently respond to.	Yes	These matters will need to be discussed and agreed post-submission
<u>Draft Order</u> The structure of the Development Consent Order was presented at a briefing in December 2020. Points were made by the authorities including a request for discussion of Requirements and Protective Provisions. There has been no further engagement on these matters, and it is disappointing that the relevant draft Order documents were not shared with the authorities.	No	Discussion with the Developer will be required to understand their proposals and secure any comfort required by the Authorities post-submission.
<u>Landscape and Biodiversity</u> The authorities remain concerned about the relatively narrow focus of the project to land within the defined application red line. This limits the opportunity for wider scheme benefits including biodiversity and zero carbon. It is noted that the	No	The Authorities welcome the statement in the Consultation Report about a 20% net gain in Biodiversity and look forward to reviewing the detailed mitigation and enhancement proposals.

<p>biodiversity net gain of 20.5% is indicated. This is encouraging but it would have been beneficial to see these studies before the DCO submission so that there is clarity on how this is to be achieved.</p>		
<p>It is agreed that the tight red line of the A14 was a point raised and note from our previous consultation this was stated including “Experience with the A14 Cambridge to Huntingdon scheme has shown that a tightly drawn red line for the application can leave very little scope for this [<i>referring to landscape mitigation and biodiversity net gain</i>]. The Authorities are concerned to ensure that this approach is not repeated with the A428 project. “</p>	No	<p>The Authorities welcome the statement in the Consultation Report about a 20% net gain in Biodiversity and look forward to reviewing the detailed mitigation and enhancement proposals.</p>
<p><u>Historic Environment</u> Submissions were made on the PEIR and the Statutory Consultation of July 2020. The focus of this latter consultation was specified as being on the Changes to the development</p> <ul style="list-style-type: none"> - boundary (known as the Order limits), and - Changes to the design of the scheme. <p>The submissions aimed to seek ways in which the scheme’s impact on the historic environment could be minimised, presenting cases where only slight modification to the red line boundary (Order limits) would avoid known archaeological sites (and the expense of excavation, publication and archiving the evidence), leaving such sites intact, and also to design changes of scheme features to omit impacts to the archaeological resource.</p> <p>While our response to formal consultations is shown in A428 Black Cat to Caxton Gibbet improvements TR010044 Volume 5, 5.2 Consultation Report Appendices Appendix V: Tables evidencing regard had to supplementary consultation responses and additional consultations (in accordance with s49 of the Planning Act 2008), it is only now that a formal response to ours is available, in the negative, without suitable design reasons as to why our requirements and suggested amendments could not be achieved. The</p>	Yes	<p>Despite providing much advice, we have not yet seen the Archaeology Mitigation Strategy, including finalised areas for excavation or avoidance, or the intentions of the Public Engagement Strategy (for archaeology: includes participation, display and interpretation) – an essential element of extensive and innovative archaeological programmes of this magnitude. This will be a key area to agree with the developer.</p>

<p>formal consultation, therefore, comes across as a tick boxing exercise of S49 of the Planning Act and presents a scheme of fixed design at a stage beyond achievable changes being possible.</p>		
<p><u>Construction Impact</u> The authorities are keen to ensure that there is early engagement with local communities, especially those most impacted by the proposed scheme and during its construction phase. Measures to minimise potential rat running during the scheme construction need to be considered and communicated as early as possible. A 'monitor and manage' approach to traffic impacts of the scheme on the villages is required.</p>	No	Issues anticipated during the construction phase should be mitigated by a robust commitment in the form of a Construction Management Plan agreed with the Authorities
<p><u>Legacy</u> The recent establishment of a Legacy Groups to address issues that may emerge after the DCO process is welcomed by the authorities. Further detail on these opportunities is required to ensure opportunities are maximised for local communities.</p>	No	None
<p>We warmly acknowledge the positive action of establishing five Technical Working Groups (TWGs) to cover a range of aspects related to the scheme, and we welcome the setting up of a Walkers, Cyclists and Horse Riders Group in Sept 2019, which has resulted in improvements following feedback from the user groups attending. However, more engagement over NMU and PROW issues would have been more effective.</p>	No	This will need to be discussed and agreed post submission.
<p>In addition, although the above TW user group was set up, CCC expected a TWG to have been set up with CCC as highway authority focussing on public rights of way legal and asset maintenance issues. This was successfully done for the recent and ongoing A14 scheme and is an important technical sub-group essential to ensure that new PROW and NMU provisions meet the appropriate legal and highway authority requirements in accordance with CCC's statutory duties and statutory</p>	No	This group should be set up as soon as possible post-submission.

Rights of Way Improvement Plan.		
It is also noted that a 'highway assets' TWG has not yet been brought forward. This is a critical component of the partnership discussions that will be required between the affected local highway authorities and Highways England, in order to address both the strategic aspects of the new highway assets to be adopted by the relevant authorities, and the specific requirements that these authorities have in respect of asset infrastructure. Indeed, had consultations on these subjects been held at an earlier stage, matters related to asset boundaries could have been broached and potentially resolved prior to the submission of the DCO. These matters have potentially complex legal implications if unresolved and therefore the benefit of approaching them during a consultation phase can be felt during and after delivery of the scheme.	No	This group should be set up as soon as possible post-submission.
Whilst it is very positive that we were consulted on certain matters relating to PROW/NMUs asset management, a greater degree of interaction on the content of our consultation responses would have been welcomed prior to DCO submission.	No	Agreement of design, handover, and process matters required post-submission.

The authorities look forward to engaging with the developer in a structured and integrated way across the disciplines to resolve issues, and discuss and agree details and modifications to the application if required, as well as relevant Requirements, Protective Provisions, Development Consent Obligations, and legal matters. The authorities note that it would have been helpful to have had more technical involvement in the pre-application process across the disciplines. Although all authorities strongly support the scheme being progressed at the earliest possible opportunity, it is important that the impacts, mitigation, and proposals are fully understood.

Conclusion

Thank you for providing the Consultation Report. The authorities note that several of the key issues raised as part of the previous consultations are addressed in the Environmental Statement which is yet to be published. As a consequence, there remains a concern that insufficient technical details have been provided to the authorities to take a considered view on the impacts of the scheme at this stage, which will need to be assessed post-submission and could extend the time required for the Authorities to produce our Local Impact Report. Some areas seem to have been addressed and others 'noted'. It is unclear what 'noted' means in this context.

Notwithstanding the above, and despite the developer not front-loading the pre-application phase of this DCO in the expected way, the authorities strongly support the proposal coming forwards as a key element of the strategic development of the Oxford-Cambridge Arc and as an improvement to the Strategic Road Network, and trust that all concerns raised to date with the applicant can be satisfactorily resolved post-submission. For the avoidance of doubt, we would not wish the scheme to be delayed on the grounds of adequacy of the consultation carried out, and have set out our views here with the intention of guiding the developer on our expectations for the pre-Examination phase, and to assist PINS in understanding where we may be seeking additional comfort through that period..

The authorities consider that the 2019 and 2020 Statutory Consultations were thorough and of good quality, and engaged well with the public and relevant authorities, satisfying the requirements of the relevant duties to consult with the public. It is harder to say, without having seen much of the detail of the application, whether the Authorities responses to those consultations have been addressed.

Yours sincerely

Steve Cox,
Executive Director, Place and Economy. Cambridgeshire CC & Peterborough City

Stephen Kelly,
Joint Director of Planning and Economic Development · Greater Cambridge Shared Planning Service

Clara Kerr
Clara Kerr - Strategic Growth Manager - Huntingdonshire District Council