
STATUTORY INSTRUMENTS

2022 No. 934

The A428 Black Cat to Caxton Gibbet
Development Consent Order 2022

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the A428 Black Cat to Caxton Gibbet Development Consent Order 2022 and comes into force on 8th September 2022.

Commencement Information

II Art. 1 in force at 8.9.2022, see [art. 1](#)

Interpretation

2.—(1) In this Order except where provided otherwise—

“the 1961 Act” means the Land Compensation Act 1961(1);

“the 1965 Act” means the Compulsory Purchase Act 1965(2);

“the 1980 Act” means the Highways Act 1980(3);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(4);

“the 1984 Act” means the Road Traffic Regulation Act 1984(5);

“the 1990 Act” means the Town and Country Planning Act 1990(6);

“the 1991 Act” means the New Roads and Street Works Act 1991(7);

“the 2008 Act” means the Planning Act 2008(8);

“address” includes any number or address for the purposes of electronic transmission;

“advanced works permission” means the planning permission in respect of land to the West of Hills Farm, Station Road, Tempsford SG19 2BP for archaeological excavation and associated engineering works granted by Central Bedfordshire Council on 8th April 2021, with reference 20/04185/FULL;

(1) 1961 c. 33.
(2) 1965 c. 56.
(3) 1980 c. 66.
(4) 1981 c. 66.
(5) 1984 c. 27.
(6) 1990 c. 8.
(7) 1991 c. 22.
(8) 2008 c. 29.

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“authorised development” means the development and associated development described in Schedule 1 (authorised development), and any other development authorised by this Order, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

“book of reference” means the document of that description listed in Schedule 10 (documents to be certified) and certified by the Secretary of State as the book of reference for the purposes of this Order;

“bridleway” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

“bridlepath” means a way constituting or comprised in a highway over which the public have a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988), on foot and on horseback or leading a horse, but no other right of way;

“building” includes any structure or erection or any part of a building, structure or erection;

“Cadent” means Cadent Gas Limited (company number 10080864), whose registered office is at Cadent, Pilot Way, Ansty, Coventry, England, CV7 9JU;

“carriageway” has the same meaning as in section 329(1) of the 1980 Act;

“classification of road plans” means the document of that description listed in Schedule 10 (documents to be certified) and certified by the Secretary of State as the classification of road plans for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 56(4)(9) of the 1990 Act) forming part of the authorised development other than any operations consisting of pre-commencement works, and “commencement” is to be construed accordingly;

“Crown land plans” means the document of that description listed in Schedule 10 (documents to be certified) and certified by the Secretary of State as the Crown land plans for the purposes of this Order;

“cycle track” has the same meaning as in section 329(1)(10) of the 1980 Act and for the purposes of this Order includes a right of way on foot;

“de-trunking plans” means the document of that description listed in Schedule 10 (documents to be certified) and certified by the Secretary of State as the de-trunking plans for the purposes of this Order;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form,

and in this definition “electronic communications network” has the same meaning as in section 32(1) (meaning of electronic communications networks and services) of the Communications Act 2003(11);

“engineering section drawings” means the document of that description listed in Schedule 10 (documents to be certified) and certified as the engineering section drawings by the Secretary of State for the purposes of this Order;

(9) Section 56(4) was amended by section 32 of, and paragraph 10(2) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

(10) The definition of “cycle track” was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

(11) 2003 c. 21. Section 32(1) was amended by S.I. 2011/1210.

“environmental masterplan” means the document of that description listed in Schedule 10 (documents to be certified) and certified by the Secretary of State as the environmental masterplan for the purposes of this Order;

“environmental statement” means the document of that description listed in Schedule 10 (documents to be certified) and certified as the environmental statement by the Secretary of State for the purposes of this Order;

“footpath” and “footway” have the same meaning as in section 329(1) of the 1980 Act;

“general arrangement plans” means the document of that description listed in Schedule 10 (documents to be certified) and certified by the Secretary of State as the general arrangement plans for the purposes of this Order;

“habitats plan” means the document of that description listed in Schedule 10 (documents to be certified) and certified by the Secretary of State as the habitats map for the purposes of this Order;

“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act;

“land plans” means the document of that description listed in Schedule 10 (documents to be certified) and certified as the land plans by the Secretary of State for the purposes of this Order;

“land adjacent to the Order limits” means any land outside but adjacent to the Order limits the use of which is reasonably necessary to construct the authorised development or any section or part of the authorised development;

“limits of deviation” means the limits of deviation referred to in article 8 (limits of deviation);

“maintain” includes, in relation any part of the authorised development, to inspect, repair, adjust, alter, improve, landscape, preserve, remove, reconstruct, refurbish or replace, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement and any derivative of “maintain” is to be construed accordingly;

“new dual carriageway” means a new 10 mile (16km) dual 2-lane carriageway from the Black Cat junction to the Caxton Gibbet junction as shown on the works plans, to be known as the A421, and comprised within the authorised development;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used permanently or temporarily, and described in the book of reference;

“the Order limits” means the limits of land to be acquired permanently or used temporarily as shown on the land plans, and the limits of land within which the authorised development, as shown on the works plans, may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(12);

“permanent speed limit plans” means the document of that description listed in Schedule 10 (documents to be certified) and certified by the Secretary of State as the permanent speed limit plans for the purposes of this Order;

“pre-commencement work” means;

- (a) archaeological investigations and mitigation works;
- (b) environmental surveys;
- (c) pre-construction mitigation works;
- (d) investigations for the purpose of assessing and monitoring ground conditions and levels;

(12) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

- (e) remedial work in respect of any contamination or other adverse ground conditions;
- (f) erection of any temporary means of enclosure;
- (g) temporary hard standing;
- (h) receipt and erection of construction plant and equipment;
- (i) diversion and laying of underground apparatus and utilities;
- (j) protection works comprising utilities protection works or fencing and protection slabs;
- (k) demolition;
- (l) site clearance;
- (m) construction compound set up; and
- (n) the temporary display of site notices or advertisements;

“the relevant local highway authority” means, the local highway authority in whose area the highway in question lies;

“relevant planning authority” means in any given provision of this Order, the planning authority for the land to which the provision relates;

“special road” means a highway which is a special road in accordance with section 16(13) (general provisions as to special roads) of the 1980 Act or by virtue of an order granting development consent;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act;

“street” means a street within the meaning of section 48(14) (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

“streets, rights of way and access plans” means the document of that description listed in Schedule 10 (documents to be certified) and certified as the streets, rights of way and access plans by the Secretary of State for the purposes of this Order;

“traffic authority” has the same meaning as in section 121A(15) (traffic authorities) of the 1984 Act;

“traffic regulation measures plans” means the document of that description listed in Schedule 10 (documents to be certified) and certified as the traffic regulation measures plans by the Secretary of State for the purposes of this Order;

“tree constraints plan” means the document of that description listed in Schedule 10 (documents to be certified) and certified as the tree constraints plan by the Secretary of State for the purposes of this Order;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“trunk road” means a highway which is a trunk road by virtue of—

(13) Section 16 was amended by paragraphs 21 and 24 of Schedule 2 to the 2008 Act and section 1(6) of, and paragraph 13 of Schedule 1 to the Infrastructure Act 2015 (c. 7).

(14) Section 48 was amended by section 124 of the Local Transport Act 2008 (c. 26).

(15) Section 121A was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the 1991 Act and amended by paragraphs 70 and 95 of Schedule 1 to the Infrastructure Act 2015 (c. 7). There are other amendments to section 121A which are not relevant to this Order.

- (a) section 10(16) (general provision as to trunk roads) or section 19(1)(17) (certain special roads and other highways to become trunk roads) of the 1980 Act;
- (b) an order made or direction given under section 10 of that Act; or
- (c) an order granting development consent; or
- (d) any other enactment;

“undertaker” means National Highways Limited, company number 09346363, whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“works plans” means the document of that description listed in Schedule 10 (documents to be certified) and certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) References in this Order to the creation and acquisition of rights over land include references to rights to oblige a party having an interest in land to grant those rights referenced in the Order, at the direction of the undertaker, either—

- (a) to an affected person directly, where that affected person’s land or rights over land have been adversely affected by this Order, and, where that is the case, the rights referenced in the Order are to be granted for the benefit of the land in which that affected person has an interest at the time of the making of this Order; or
- (b) to any statutory undertaker for the purposes of their undertaking.

(4) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(5) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(6) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the relevant plans.

(7) References in this Order to numbered works are references to the works as numbered in Part 1 of Schedule 1 (authorised development).

Commencement Information

I2 Art. 2 in force at 8.9.2022, see [art. 1](#)

Disapplication of legislative provisions

3.—(1) The provisions of the Neighbourhood Planning Act 2017(18) insofar as they relate to temporary possession of land under articles 37 (temporary use of land for carrying out the authorised

(16) Section 10 was amended by section 22(2) of the 1991 Act, by paragraph 22 of Schedule 2 to the 2008 Act and by section 1(6) of, and Schedule 1 to, the Infrastructure Act 2015.

(17) Section 19(1) was amended by section 1(6) of, and paragraph 15 of Schedule 1 to, the Infrastructure Act 2015.

(18) 2017 c. 20.

development) and 38 (temporary use of land for maintaining the authorised development) do not apply in relation to the construction of work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development and, within the maintenance period defined in article 38(13), any maintenance of any part of the authorised development.

(2) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development—

- (a) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016⁽¹⁹⁾ in relation to the carrying on of a flood risk activity;
- (b) the provisions of any byelaws made under, or having effect as if made under, paragraph 5, 6 or 6A of Schedule 25 (byelaw making powers of the appropriate agency) to the Water Resources Act 1991⁽²⁰⁾;
- (c) section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991⁽²¹⁾;
- (d) section 32⁽²²⁾ (variation of awards) of the Land Drainage Act 1991;
- (e) section 15 (temporary closure of recreational waterways) of the Anglian Water Authority Act 1977⁽²³⁾;
- (f) Part 11 (Community Infrastructure Levy) of the 2008 Act; and
- (g) the provisions of any byelaws made under section 66⁽²⁴⁾ (powers to make byelaws) of the Land Drainage Act 1991.

(3) In paragraph (2)(a) “flood risk activity” has the meaning given in the Environmental Permitting (England and Wales) Regulations 2016.

Commencement Information

I3 Art. 3 in force at 8.9.2022, see [art. 1](#)

⁽¹⁹⁾ [S.I. 2016/1154](#).

⁽²⁰⁾ [1991 c. 57](#). Paragraph 5 was amended by section 100(1) and (2) of the Natural Environment and Rural Communities Act 2006 ([c. 16](#)), section 84 of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009 ([c. 23](#)), paragraphs 40 and 49 of Schedule 25 to the Flood and Water Management Act 2010 ([c. 29](#)) and [S.I. 2013/755](#). Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 ([c. 25](#)), section 224 of, and paragraphs 20 and 24 of Schedule 16, and Part 5(B) of Schedule 22, to, the Marine and Coastal Access Act 2009 and [S.I. 2013/755](#). Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

⁽²¹⁾ [1991 c. 59](#). Section 23 was amended by section 120(1) of and paragraph 192 of Schedule 22 to, the Environment Act 1995 and section 31 of, and paragraphs 25 and 32 of Schedule 2 to, the Flood and Water Management Act 2010 ([c. 29](#)).

⁽²²⁾ Section 32 was amended by [S.I. 2013/755](#).

⁽²³⁾ [1977 c. i](#).

⁽²⁴⁾ Section 66 was amended by section 49(3) of and paragraphs 25 and 38 of Schedule 2 to, the Flood and Water Management Act 2010 and section 86 of the Water Act 2014 ([c. 21](#)).

Changes to legislation:

There are currently no known outstanding effects for the The A428 Black Cat to Caxton Gibbet Development Consent Order 2022, PART 1.