

IMMINGHAM EASTERN RO-RO TERMINAL



DTA Report 23325035 – Transport Policy Mitigation Requirements

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1.0 INTRODUCTION AND CONTEXT

- 1.1 The applicant has provided revised junction assessments which are discussed in detail in the submissions provided at REP5-027 and REP5-028.
- 1.2 As explained in REP5-027 the updated modelling provided in REP5-028 takes into account the issues raised by DFDS in their submission following ISH3 (REP4-025) and further comments received on 16th October 2023. The majority of comments received on the 16th October 2023 relate to comments that should have properly been provided at the Written Representation stage of the examination as they relate to modelling assumptions made in the original TA. They have nonetheless been responded to comprehensively within the modelling.
- 1.3 A comparison of the changes is provided at **Annex A**. In summary, the results of the revised modelling supports and confirms the conclusions of the original Transport Assessment. There are some junctions which are operating closer to capacity than originally forecast in 2032.
- 1.4 The significant proportion of the reduction in capacity is related to committed development traffic and growth rather than the development itself. In any event queuing is manageable and delay dissipates quickly after the central ~15% uplift central time period.
- 1.5 In all cases, the level of traffic generated by the proposed IERRT development results in no material change in operation between the 2032 scenario without the development to the 2032 scenario with the development. The development therefore clearly has no material change on the operation of the junction.
- 1.6 On that basis there is no justification for mitigation arising from the proposed development. Notwithstanding this, DFDS contended at ISH3 that current forecast of development impact would lead to the need for physical mitigation. It is now alleged in REP5-042 by DFDS:

“Following several fruitful meetings of transport consultants once the examination had started, the Applicant’s consultants now generally agree with those of DFDS and CLdN, and the implications of this are likely to be the need for improvements to at least two highway junctions.....”

1.7 For the avoidance of any doubt this position is not agreed by the Applicant and it is not the case that there is any need for improvements at highway junctions on the basis of the updated modelling. The relevant policy tests for any consideration of the need for traffic and transport related mitigation are set out in:

- The National Policy Statement for Ports (NPSfP) Section 5.4 and
- The National Planning Policy Framework (NPPF) Section 9.

2.0 NPSfP

2.1 The Applicant’s general position on the NPSfP is set out in the Planning Statement that was submitted as part of the IERRT application (APP-019, Appendix 1 – pages 175 - 184).

2.2 In summary, the Applicant has followed the process that is required by the NPSfP and in particular the guidance given to the decision maker in terms of considering the traffic and transport impacts of the proposal. These matters are summarised in the following paragraphs:

- i. The Transport Assessment should be prepared in accordance with relevant DfT Guidance (NPSfP, paragraph 5.4.4). The specific guidance referred to in the NPSfP has subsequently been replaced by relevant guidance in the National Planning Practice Guidance (NPPG) found under the heading “Travel Plans, Transport Assessments and Statements” that was published in March 2014.
- ii. Paragraph: 005 Reference ID: 42-005-20140306 of the NPPG states, amongst other things, that “The Transport Assessment or Transport Statement may propose mitigation measures where these are necessary to avoid unacceptable or “severe” impacts.” – (Our underlining)
- iii. This is, in effect, the same test that is set out in the NPPF (Paragraphs 110 and 111) that is discussed further below).

- iv. In terms of guidance for the decision-maker, the NPSfP at paragraph 5.4.9 confirms that

“A new nationally significant infrastructure project may give rise to substantial impacts on the surrounding transport infrastructure, and the IPC should therefore ensure that the applicant has sought to mitigate these impacts, including during the construction phase of the development. Where the proposed mitigation measures are insufficient to reduce the impact on the transport infrastructure to acceptable levels (emphasis added), the IPC should consider conditions to mitigate adverse impacts on transport networks arising from the development, as set out below. Applicants may also be willing to enter into planning obligations for funding infrastructure and otherwise mitigating adverse impacts.”

- v. The NPSfP test is in the first instance, therefore, whether or not the development gives rise to ‘substantial impacts on the surrounding transport infrastructure’. In such circumstances, the decision maker is then to ensure that the Applicant has sought to mitigate such impacts. In circumstances where the decision maker does not consider that the mitigation proposed by the Applicant is sufficient to result in an acceptable impact then other steps are indicated as being available to the decision maker.
- vi. The Applicant considers that substantial and acceptable should be interpreted having regard to advice in the NPPG and policy contained within the NPPF as referred to above.

2.3 It is clearly the case that the traffic and transport impacts of the IERRT development are not ‘substantial’ and, furthermore, that the overall traffic and transport impact after considering mitigation proposed by the Applicant is not unacceptable or indeed severe (a matter discussed further below in terms of the NPPF).

2.4 Even if, however, for whatever reason the decision maker were to reach a different conclusion – i.e. the impacts in the first instance were considered ‘substantial’ and that, after the Applicant’s proposed mitigation, the impacts were still considered to be unacceptable then paragraph 5.4.9 requires the decision maker to consider conditions to mitigate adverse impact “as set out below” rather than resort to junction improvements. The options for mitigation “as set out below” are then covered in paragraph 5.4.11 to 5.4.25 under the following headings. (It should be noted that a

number of mitigation measures falling within these headings have been put forward by the Applicant in respect of the IERRT proposal.)

Mitigation: demand management (NPSfP paragraphs 5.4.11 to 5.4.13)

Mitigation: modal share (NPSfP paragraphs 5.4.14 to 5.4.21)

Mitigation: HGVs (NPSfP paragraphs 5.4.22 to 5.4.23)

Mitigation: access (NPSfP paragraphs 5.4.24 to 5.4.25)

2.5 In addition to the decision maker being required to consider conditions relating to the above mitigation areas to ensure impacts are reduced to acceptable levels, paragraph 5.4.9 of the NPSfP also identifies that an Applicant 'may also be willing to enter into planning obligations for funding infrastructure and otherwise mitigating adverse effects'.

2.6 Paragraph 5.4.10 of the NPSfP then goes on to make clear – having regard to paragraph 5.4.9, and in circumstances where the mitigation is secured through a planning obligation or conditions - that:

"[...]development consent should not be withheld and appropriately limited weight should be applied to residual effects on the surrounding transport infrastructure."

2.7 In terms of the NPSfP, therefore, there is no specific policy test that requires highway capacity mitigation measures. The NPSfP only indicates that the Applicant 'may also be willing to enter into planning obligations for funding infrastructure and otherwise mitigating adverse impacts', but this suggestion is made in the context of a proposed development in the first instance giving rise to 'substantial impacts on the surrounding transport infrastructure', and when other mitigation options are not then able to reduce the substantial impact to acceptable levels.

2.8 In respect of the provision of transport infrastructure improvements, the NPSfP provides further guidance at paragraph 5.4.26 and following, under the heading of 'Funding of infrastructure'. In paragraph 5.4.26 that it is:

“... The essential principle is that the developer is expected to fund provision of infrastructure required solely to accommodate users of the development without detriment to pre-existing users (emphasis added). Where, in the case of a nationally significant infrastructure project (NSIP) such as a major port development, there is a case for bringing forward schemes which help meet the 'background' growth in 'third-party' traffic, the guidance explains the circumstances in which the Government would expect to 'co-fund' in respect of such benefits and the methodology that should be employed to determine funding shares.”

- 2.9 The Applicant considers that the NPSfP policy position set out above reflects the position set out in the NPPF and supporting case law, which is discussed below. In this case, the A160 has been recently upgraded by the DfT (itself a DCO) and there is no case for wider improvements and none has been sought by NH.

3.0 NPPF

- 3.1 The Applicant considers that the impact of the scheme and need for physical mitigation should also be considered against the policy test set out in paragraphs 110 and 111 of the NPPF, which states:

“In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a. Appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b. Safe and suitable access to the site can be achieved for all users; and*
- c. the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and*
- d. Any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.”*

Para 110

- 3.2 Paragraph 111 establishes that there are very limited circumstances where development can be refused on highways grounds as reflected in the threshold that the residual cumulative impact must be severe. This is a high bar.

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

Para 111

3.3 The NPPF policy test, therefore, is whether there are significant impacts on the transport network which need mitigation, whether those significant impacts can be cost effectively mitigated to an acceptable degree and ultimately whether the residual cumulative impacts (which includes taking account of any mitigation proposed) on the road network would be severe.

3.4 The way that the test of severity should be applied was considered in detail in Hawkhurst Parish Council v Tunbridge Wells DC [2020] EWHC 3019. The most pertinent conclusion of that judgment is set out in Para 138 where it is confirmed that:

“In my judgment, paragraph 109 [Note now 111] of the NPPF necessarily requires consideration of whether the residual cumulative impact of the proposed development is severe, not simply whether existing or projected congestion without that development would be severe.”

3.5 On that basis it is the change that arises from the development that must be found ‘severe’. In all reasonable terms, the interpretation of its use in Policy is that it sets a very high bar or hurdle. Traffic impact issues should in other words not prevent the deliverability of otherwise sustainable and appropriate development unless there are very significant and exceptional impacts arising. Such impacts would not be generated by the IERRT development.

07:00-08:00

Junction	2025 + Committed		2025 + Committed + Development		2032 + Committed		2032 + Committed + Development	
	TA	Updated TN2	TA	Updated TN2	TA	Updated TN2	TA	Updated TN2
A160/ A180*	<u>Within Capacity</u> Highest RFC of 0.48, Q of 0.9	<u>Within Capacity</u> Highest RFC of 0.81, Q of 4.25	<u>Within Capacity</u> Highest RFC of 0.51, Q of 1.1	<u>Within Capacity</u> Highest RFC of 0.82, Q of 4.4	<u>Within Capacity</u> Highest RFC of 0.51, Q of 1.0	<u>Approaching Capacity</u> Highest RFC of 0.89, Q of 7.1	<u>Within Capacity</u> Highest RFC of 0.54, Q of 1.2	<u>Approaching Capacity</u> Highest RFC of 0.91, Q of 7.8
A160/ Habrough Road/ Ulceby Road/ East Halton Road*	<u>Within Capacity</u> Highest RFC of 0.57, Q of 1.5	<u>Approaching Capacity</u> Highest RFC of 0.88, Q of 8.4	<u>Within Capacity</u> Highest RFC of 0.58, Q of 1.6	<u>Approaching Capacity</u> Highest RFC of 0.88, Q of 8.7	<u>Within Capacity</u> Highest RFC of 0.61, Q of 1.8	<u>Approaching Capacity</u> Highest RFC of 0.94, Q of 15.0	<u>Within Capacity</u> Highest RFC of 0.62, Q of 1.9	<u>Approaching Capacity</u> Highest RFC of 0.94, Q of 15.7
A160/ Humber Road/ Manby Road	<u>Within Capacity</u> Highest RFC of 0.45, Q of 1.0	<u>Within Capacity</u> Highest RFC of 0.55, Q of 1.7	<u>Within Capacity</u> Highest RFC of 0.47, Q of 1.1	<u>Within Capacity</u> Highest RFC of 0.57, Q of 1.8	<u>Within Capacity</u> Highest RFC of 0.47, Q of 1.1	<u>Within Capacity</u> Highest RFC of 0.59, Q of 2.0	<u>Within Capacity</u> Highest RFC of 0.49, Q of 1.2	<u>Within Capacity</u> Highest RFC of 0.61, Q of 2.1
A180/ A1173	<u>Within Capacity</u> Highest RFC of 0.38, Q of 0.7	<u>Within Capacity</u> Highest RFC of 0.42, Q of 0.8	<u>Within Capacity</u> Highest RFC of 0.46, Q of 1.1	<u>Within Capacity</u> Highest RFC of 0.45, Q of 0.9	<u>Within Capacity</u> Highest RFC of 0.39, Q of 0.7	<u>Within Capacity</u> Highest RFC of 0.44, Q of 0.8	<u>Within Capacity</u> Highest RFC of 0.48, Q of 1.1	<u>Within Capacity</u> Highest RFC of 0.46, Q of 0.9
A1173/ SHIIP*	<u>Within Capacity</u> Highest RFC of 0.44, Q of 0.9	<u>Within Capacity</u> Highest RFC of 0.59, Q of 1.6	<u>Within Capacity</u> Highest RFC of 0.48, Q of 1.0	<u>Within Capacity</u> Highest RFC of 0.61, Q of 1.8	<u>Within Capacity</u> Highest RFC of 0.46, Q of 0.9	<u>Within Capacity</u> Highest RFC of 0.78, Q of 3.9	<u>Within Capacity</u> Highest RFC of 0.49, Q of 1.1	<u>Within Capacity</u> Highest RFC of 0.80, Q of 4.5
A1173/ Kiln Lane*	<u>Within Capacity</u> Highest RFC of 0.73, Q of 3.0	<u>Within Capacity</u> Highest RFC of 0.83, Q of 5.5	<u>Within Capacity</u> Highest RFC of 0.83, Q of 5.3	<u>Approaching Capacity</u> Highest RFC of 0.86, Q of 6.8	<u>Within Capacity</u> Highest RFC of 0.75, Q of 3.4	<u>Approaching Capacity</u> Highest RFC of 0.86, Q of 6.7	<u>Approaching Capacity</u> Highest RFC of 0.85, Q of 6.3	<u>Approaching Capacity</u> Highest RFC of 0.89, Q of 8.6
Kings Road/ A1173	<u>Within Capacity</u> Highest RFC of 0.48, Q of 1.0	<u>Within Capacity</u> Highest RFC of 0.57, Q of 1.5	<u>Within Capacity</u> Highest RFC of 0.58, Q of 1.6	<u>Within Capacity</u> Highest RFC of 0.67, Q of 2.4	<u>Within Capacity</u> Highest RFC of 0.54, Q of 1.3	<u>Within Capacity</u> Highest RFC of 0.59, Q of 1.6	<u>Within Capacity</u> Highest RFC of 0.64, Q of 2.1	<u>Within Capacity</u> Highest RFC of 0.70, Q of 2.7
Queens Road/ Laporte Road	<u>Within Capacity</u> Highest RFC of 0.40, Q of 0.8	<u>Within Capacity</u> Highest RFC of 0.51, Q of 1.2	<u>Within Capacity</u> Highest RFC of 0.50, Q of 1.1	<u>Within Capacity</u> Highest RFC of 0.62, Q of 1.8	<u>Within Capacity</u> Highest RFC of 0.43, Q of 0.9	<u>Within Capacity</u> Highest RFC of 0.53, Q of 1.3	<u>Within Capacity</u> Highest RFC of 0.53, Q of 1.3	<u>Within Capacity</u> Highest RFC of 0.65, Q of 2.1
Laporte Road/ Kiln Lane/ Hobson Way	<u>Within Capacity</u> Highest RFC of 0.23, Q of 0.3	<u>Within Capacity</u> Highest RFC of 0.28, Q of 0.5	<u>Within Capacity</u> Highest RFC of 0.24, Q of 0.4	<u>Within Capacity</u> Highest RFC of 0.30, Q of 0.5	<u>Within Capacity</u> Highest RFC of 0.23, Q of 0.3	<u>Within Capacity</u> Highest RFC of 0.29, Q of 0.5	<u>Within Capacity</u> Highest RFC of 0.25, Q of 0.4	<u>Within Capacity</u> Highest RFC of 0.30, Q of 0.5

* Based on Stena Profile

16:00-17:00

Junction	2025 + Committed		2025 + Committed + Development		2032 + Committed		2032 + Committed + Development	
	TA	Updated TN2	TA	Updated TN2	TA	Updated TN2	TA	Updated TN2
A160/ A180	<u>Within Capacity</u> Highest RFC of 0.45, Q of 1.0	<u>Within Capacity</u> Highest RFC of 0.62, Q of 2.0	<u>Within Capacity</u> Highest RFC of 0.46, Q of 1.0	<u>Within Capacity</u> Highest RFC of 0.63, Q of 2.1	<u>Within Capacity</u> Highest RFC of 0.46, Q of 1.0	<u>Within Capacity</u> Highest RFC of 0.64, Q of 2.3	<u>Within Capacity</u> Highest RFC of 0.48, Q of 1.1	<u>Within Capacity</u> Highest RFC of 0.65, Q of 2.3
A160/ Habrough Road/ Ulceby Road/ East Halton Road	<u>Within Capacity</u> Highest RFC of 0.48, Q of 1.2	<u>Approaching Capacity</u> Highest RFC of 0.87, Q of 8.1	<u>Within Capacity</u> Highest RFC of 0.49, Q of 1.2	<u>Approaching Capacity</u> Highest RFC of 0.88, Q of 8.9	<u>Within Capacity</u> Highest RFC of 0.52, Q of 1.4	<u>Approaching Capacity</u> Highest RFC of 0.92, Q of 13.6	<u>Within Capacity</u> Highest RFC of 0.53, Q of 1.4	<u>Within Capacity</u> Highest RFC of 0.93, Q of 15.5
A160/ Humber Road/ Manby Road	<u>Within Capacity</u> Highest RFC of 0.52, Q of 1.4	<u>Within Capacity</u> Highest RFC of 0.81, Q of 5.6	<u>Within Capacity</u> Highest RFC of 0.53, Q of 1.4	<u>Within Capacity</u> Highest RFC of 0.82, Q of 6.2	<u>Within Capacity</u> Highest RFC of 0.55, Q of 1.5	<u>Approaching Capacity</u> Highest RFC of 0.86, Q of 8.0	<u>Within Capacity</u> Highest RFC of 0.56, Q of 1.6	<u>Within Capacity</u> Highest RFC of 0.88, Q of 9.1
A180/ A1173	<u>Within Capacity</u> Highest RFC of 0.54, Q of 1.3	<u>Within Capacity</u> Highest RFC of 0.55, Q of 1.3	<u>Within Capacity</u> Highest RFC of 0.60, Q of 1.6	<u>Within Capacity</u> Highest RFC of 0.60, Q of 1.7	<u>Within Capacity</u> Highest RFC of 0.27, Q of 0.4	<u>Within Capacity</u> Highest RFC of 0.57, Q of 1.5	<u>Within Capacity</u> Highest RFC of 0.61, Q of 1.7	<u>Within Capacity</u> Highest RFC of 0.62, Q of 1.9
A1173/ SHIIP*	<u>Within Capacity</u> Highest RFC of 0.45, Q of 0.9	<u>Within Capacity</u> Highest RFC of 0.70, Q of 2.5	<u>Within Capacity</u> Highest RFC of 0.53, Q of 1.3	<u>Within Capacity</u> Highest RFC of 0.77, Q of 3.7	<u>Within Capacity</u> Highest RFC of 0.46, Q of 1.0	<u>Within Capacity</u> Highest RFC of 0.72, Q of 2.8	<u>Within Capacity</u> Highest RFC of 0.55, Q of 1.4	<u>Within Capacity</u> Highest RFC of 0.79, Q of 4.2
A1173/ Kiln Lane	<u>Within Capacity</u> Highest RFC of 0.51, Q of 1.1	<u>Within Capacity</u> Highest RFC of 0.55, Q of 1.4	<u>Within Capacity</u> Highest RFC of 0.59, Q of 1.6	<u>Within Capacity</u> Highest RFC of 0.63, Q of 2.0	<u>Within Capacity</u> Highest RFC of 0.52, Q of 1.2	<u>Within Capacity</u> Highest RFC of 0.58, Q of 1.6	<u>Within Capacity</u> Highest RFC of 0.61, Q of 1.7	<u>Within Capacity</u> Highest RFC of 0.65, Q of 2.1
Kings Road/ A1173	<u>Within Capacity</u> Highest RFC of 0.37, Q of 0.6	<u>Within Capacity</u> Highest RFC of 0.45, Q of 0.9	<u>Within Capacity</u> Highest RFC of 0.47, Q of 1.0	<u>Within Capacity</u> Highest RFC of 0.51, Q of 1.1	<u>Within Capacity</u> Highest RFC of 0.39, Q of 0.7	<u>Within Capacity</u> Highest RFC of 0.47, Q of 1.0	<u>Within Capacity</u> Highest RFC of 0.48, Q of 1.1	<u>Within Capacity</u> Highest RFC of 0.53, Q of 1.2
Queens Road/ Laporte Road	<u>Within Capacity</u> Highest RFC of 0.13, Q of 0.2	<u>Within Capacity</u> Highest RFC of 0.15, Q of 0.2	<u>Within Capacity</u> Highest RFC of 0.16, Q of 0.3	<u>Within Capacity</u> Highest RFC of 0.22, Q of 0.4	<u>Within Capacity</u> Highest RFC of 0.14, Q of 0.2	<u>Within Capacity</u> Highest RFC of 0.16, Q of 0.2	<u>Within Capacity</u> Highest RFC of 0.17, Q of 0.3	<u>Within Capacity</u> Highest RFC of 0.23, Q of 0.4
Laporte Road/ Kiln Lane/ Hobson Way	<u>Within Capacity</u> Highest RFC of 0.25, Q of 0.4	<u>Within Capacity</u> Highest RFC of 0.29, Q of 0.5	<u>Within Capacity</u> Highest RFC of 0.26, Q of 0.4	<u>Within Capacity</u> Highest RFC of 0.30, Q of 0.5	<u>Within Capacity</u> Highest RFC of 0.26, Q of 0.4	<u>Within Capacity</u> Highest RFC of 0.30, Q of 0.5	<u>Within Capacity</u> Highest RFC of 0.27, Q of 0.4	<u>Within Capacity</u> Highest RFC of 0.32, Q of 0.5