



West Midlands
Interchange

Four Ashes Ltd

The West Midlands Rail Freight Interchange Order 201X

Applicant's Post Hearing Submissions (ISH1 – Draft DCO and DCOB 28.2.19) – Document 9.1

1. A previous version of this table was submitted to the ExA in advance of ISH1 in response to the ExA's questions contained in the Agenda for the ISH. The table has been amended and updated generally, and to reflect the Applicant's oral submissions made at the ISH.
2. Each question in this document is referred to as ISH1 + the ExA question reference. e.g. the response to 1.4 below is ISH1:1.4.
3. The Applicant provided a brief explanation of the changes made to the draft Development Consent Order (dDCO), submitted to the ExA in December 2018 (**Document 3.1A** [AS-015 (Tracked) and AS-014 (Clean)]). This explanation is contained in **Appendix 1** to this document.

ISH1 Agenda Annex 2 - Draft DCO – Structure, Definitions and Articles 1 – 49 (Agenda item 4)

COMMENTS AND QUESTIONS BY EXAMINING AUTHORITY

Q Ref	Part of DCO	Directed to	Question/ comment	Applicant's Response
1.1	General	Applicant	It is noted that the use of the word " <i>shall</i> " has been replaced with other wording in a number of places within the revised draft in accordance with the guidance in Advice Note 15 (AN15). However, " <i>shall</i> " is still used extensively in the drafting where alternative wording would seem more appropriate. The applicant is requested to undertake a further review of the draft text with a view to minimising reliance on this wording whilst maintaining consistency across the draft DCO as a whole. (Compare for example A16 (6) with A17 (3) where	This is noted. The Applicant will review and amend the dDCO accordingly.

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			there appears to be no obvious need for a different wording).	
1.2	A2	Applicant	Why within the definition of " <i>Authorised Development</i> " is it necessary or appropriate to include the additional wording " <i>and any other works carried out under the requirements</i> "? This appears to be superfluous since works carried out under the requirements would, presumably, already be covered by the phrase " <i>and any other development authorised by this Order</i> " within the first part of the definition.	<p>This wording is included to put beyond doubt the fact that any works (which may not necessarily be "development") carried out pursuant to a requirement (e.g. following approval of a scheme, such as archaeological schemes of investigation) are included in the meaning of "authorised development" and are therefore authorised by the Order.</p> <p>The wording is the same as in the approved East Midlands Gateway DCO.</p>
1.3	A2	Applicant SSDC	The definition of " <i>commence</i> " in the revised draft DCO includes the words " <i>unless the context indicates otherwise</i> ". (i) What circumstances are envisaged by this reference and how might this affect the clarity of the Order? (ii) Is this additional wording necessary and appropriate?	<p>This wording was added following a comment by the ExA of a different Examination (The Northampton Gateway Rail Freight Interchange Order), where that ExA was concerned to ensure that the meaning of "commence" or "commencement" was appropriately applied to its context throughout the dDCO.</p> <p>It is necessary for the West Midlands dDCO because there are several references to "commencement" which do not only apply in the context of commencing the "authorised development" e.g. see article 10(3)(b) which refers to commencement points for the stopping up of</p>

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				streets. That clearly is not the carrying out of a material operation as part of the authorised development, and therefore it is felt that the inclusion of the additional wording to allow interpretation in its appropriate context is helpful.
1.4	A2	Applicant SSDC SCC	<p>i) Is the definition of “<i>maintain</i>” in the revised draft DCO consistent with the guidance at paragraph 18.2 of AN15 that a power to maintain should not authorise development which may result in significant environmental effect not already assessed?</p> <p>ii) Has the applicant engaged with the relevant bodies to seek to agree this definition and the related article in the draft Order?</p>	<p>i) Maintenance of the authorised development is governed by article 6, except for the highway works, the maintenance of which is governed by article 14 and the relevant protective provisions (see Parts 2 and 3 of Schedule 13).</p> <p>Article 6(3) ensures that any maintenance (as defined in article 2) must not give rise to any significant adverse effects on the environment which have not been identified at the time the Order was made or in any updated environmental information supplied. This is consistent with para 18.2 of AN 15.</p> <p>ii) The Applicant has sought to engage with the District and County Councils to obtain their comments on the dDCO and has not received any comments on this definition or the related article. The Applicant considers that the definition and article are appropriate and clearly come within the guidance at paragraph 18.2 of AN15.</p>

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				<p>The Applicant noted that SSDC mentioned it would like some amendments to the drafting of this article. The Applicant is keen to understand any concerns or comments and has requested that these are provided by SSDC and/or SCC as soon as possible in order that any suitable amendments can be made to the next draft of the DCO to be submitted to the ExA for Deadline 3.</p>
1.5	A2	Applicant SCC HE	(i) Is there any specific need or purpose for using separate terms for " <i>street authority</i> " and " <i>relevant street authority</i> " and for " <i>traffic authority</i> " as well as " <i>relevant traffic authority</i> " when there seems to be no similar duplication of the term " <i>highway authority</i> "?	<p>(i) The dDCO does include the definition of "relevant highway authority". The terms "relevant street authority", "relevant traffic authority" and "relevant highway authority" are required because in each instance there are different bodies to which a provision might be referring.</p> <p>For example, article 10(3)(a) refers to a "relevant street authority" because the street authority could be either the highway authority (either the County or Highway England) or the undertaker (in the case of the private streets on the main site). Similarly, article 17 refers to the "relevant traffic authority" because the traffic regulation provisions apply to roads on the Highways England network and/or the County highway network. Finally, the term "relevant highway authority" is necessary for the provisions relating to public highways which require consent of either Highways England or the</p>

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			(ii) Is any useful distinction identified by means of the separate terms or could they be reduced to a single term for each type of authority to be used in all appropriate parts of the DCO?	<p>County highway authority (e.g. see articles 12, 13 and 20).</p> <p>Both the term “street authority” and “relevant street authority” need to be defined since both terms are used within the body of the DCO. For example, “street authority” is used in Article 8(3) and (4) and “relevant street authority” is used in Article 10 (3)(a). Both terms are used in Article 11 (3).</p> <p>ii) It is considered necessary to include each of the separate terms because they have a particular meaning dependent upon their context (e.g. a highway authority relates to a public road, whereby a street authority includes private streets and could therefore include the undertaker in respect of those streets in the Order limits which will remain private). The Applicant will review the dDCO and consider whether any amendments should be made.</p>
1.6	A2	Applicant	As drafted the second part of the definition of “ <i>rail served warehousing</i> ” is not particularly clear. Any warehouse could, arguably, be capable of receiving goods “ <i>by means of another form of transport</i> ”. (i) Is this intended to refer to the transfer of goods from the Rail Freight Terminal to a warehouse comprised within the authorised development? (ii) does the definition cover all of the proposed warehousing?	It is intended that the definition includes all warehousing provided as part of the authorised development. The term “rail served” was intended to indicate compliance with section 26 of the Planning Act 2008, hence the reference to “by means of another form of transport” which is taken from section 26. However, the Applicant accepts that it has served to confuse and implies a

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				<p>differentiation between some of the warehouses being proposed as part of the development, which is not the case. The Applicant suggests an alternative definition where only the term “<i>warehousing</i>” is used, which will be defined as “<i>means the warehousing constructed as part of the authorised development</i>” This amended definition, together with the associated changes throughout the dDCO, will be included in the next version of the dDCO to be submitted for Deadline 3.</p>
1.7	A2	Applicant SCC HE	<p>The definition of “<i>verge</i>” as drafted would appear capable of including any footway or cycleway running alongside the ‘<i>carriageway</i>’. Is this an accurate meaning of the term having regard to the definitions set out in s329 of the Highways Act 1980?</p>	<p>The ExA is correct that the definition of “<i>verge</i>”, as drafted, includes a footway or cycleway due to the meaning of “<i>carriageway</i>” in s329 of the Highways Act 1980. Having re-considered this point, the Applicant believes the drafting should remain as it is, since the definition is deliberately drafted to exclude the carriageway (and all its constituent parts). The reference to “<i>verge</i>” in the dDCO is only relevant to the traffic regulation provisions in respect of “no waiting” etc. (A18). The Applicant requests views from the relevant highway authorities prior to the submission of the next dDCO.</p>

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1.8	A3	Applicant	<p>(i) Are the words "<i>and used</i>" towards the end of A3 needed?</p> <p>(ii) Do they meet a separate and specific purpose not already covered in the wording of A5 and A39?</p>	<p>(i) The wording was included to explicitly authorise the use of the development in addition to its construction.</p> <p>The reason for the inclusion of "and used" is that, although section 157 of the Planning Act 2008 authorises the use of buildings in respect of which development consent is granted, there is no similar provision related to land.</p> <p>(ii) It is acknowledged that this is also expressly included in articles 5 (dealing with rail infrastructure and warehousing) and 39 (dealing with the railway system), however, in those articles, the "use" provision relates only to some specific works and not the "authorised development" in its entirety.</p>
1.9	A4	Applicant	How would Clause (a) operate alongside Note 3 on the Works Plans, for example in respect of the flexibility in relation to the detailed siting, plan and footprint of any of the proposed warehouses or other buildings?	Note 3 on the Works Plans explains the limits of deviation for each of the works. That is, for those Works No.s which are not specifically mentioned, the full extent of deviation is the works area shown on the plan, within the Order limits. For those which are mentioned, the limit of deviation is as shown on those plans with the relevant delineation (e.g. for Works No. 5 the maximum deviation is either 5m where there is a blue dashed line or 7m where there is an orange dashed line).

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				<p>In respect of the example given, all warehousing must be sited within the area shown as Works No. 3, shaded grey. Any flexibility in their exact siting and footprint is governed by the parameters plans and the approval of the detailed design under the requirements.</p>
1.10	A4	Applicant	<p>i) How would Clause (b) operate alongside the annotations on the Bridge Plans which indicate detailed levels for the underside, deck and other key elements of the proposed bridges and set minimum clearance levels for the underside of bridges?</p> <p>ii) Would there be a risk that the flexibility provided by Clause (b) might operate in tandem with that provided by Clause (c) (i.e. in relation to a bridge over part of the railway works) to result in an upwards deviation in the level of such a bridge by 3 metres?</p>	<p>i) It is intended that the exact detail of the bridge design is to be approved before construction (requirement 3 will be amended to provide for that explicitly). The ExA will note that some of these annotations on the Bridge Plans refer to approximate distances. The maximum limits of deviation are required to ensure that the DCO allows for tolerance to accommodate normal variations required when construction details are known.</p> <p>ii) The Applicant does not consider that there is a risk of this, but will consider whether the wording of sub-paragraphs (b) and (c) might be suitably amended to alleviate any concerns. The railway works mentioned in sub-paragraph (c) specifically relate to Works 1 and 2, whereas the construction of the bridges is contained in Works 4. However, the Applicant understands the potential for confusion and suggests that article 4(b) is amended to refer to "bridges" rather than "bridge</p>

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			<p>iii) Has the full degree of flexibility provided for in A4 been assessed in the ES on a worst case basis?</p>	<p>works”, since the term “bridges” is defined with reference to the Bridge Plans.</p> <p>iii) The parameter plans make reference to the works plans and these, along with the stated variations in Article 4, have been considered in the ES where effects have been considered on a worst case basis.</p> <p>The Applicant clarified at the ISH that A4 does not permit development beyond the parameters and referred to other DCOs which contain similar provisions, as mentioned in the Explanatory Memorandum. The Applicant does, however, acknowledge that there needs to be a clearer relationship between the drafting of A4 and the Bridge Plans, specifically which measurements on the Bridge Plans the tolerance applies to.</p>
1.11	A4	Applicant	<p>In respect of the second part (rider) to A4, generally it is acceptable to provide for the LPA (or other body) to agree subsequent amendments to details that it has been responsible for approving under a requirement included within a DCO. However, giving an LPA the power to agree subsequent amendments to details approved by the SoS as part of the original Order creates uncertainty for the SoS as to what is being approved by the DCO. The additional flexibility proposed in this part of A4</p>	<p>The inclusion of this proviso (albeit in some different forms), is generally accepted in DCOs and is becoming more common in order to allow flexibility without the need for a formal amendment to a DCO, but only in circumstances where the local authority is satisfied that there is no significant adverse effect on the environment as a result.</p>

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			<p>appears to be of this nature and is a cause of concern. What further variation from the limits prescribed in Clauses (a) to (c) is anticipated and why cannot this be accommodated within the parameter plans which would be approved as part of the DCO?</p> <p>It is noted that the EM refers to similar wording having been proposed in the DCO for the A14 road project. However, I am advised that the SoS rejected that wording and made any power to approve any further variation from the approved parameters subject to SoS approval (See A7 of that DCO- Ref. TR010018).</p>	<p>The provision included is as drafted by the Secretary of State for the A14 Order (S.I. 2016 No. 547) and the M20 Junction 10a Order (S.I. 2017 No. 1202),. except with the local authority being the adjudicator rather than the Secretary of State, which it is felt is more appropriate. Accordingly it is considered the flexibility it provides is acceptable in principle. It is felt that the local planning authority is the appropriate authority to consider this in this case, given the involvement of the local planning authority in dealing with approval of details for the remainder of the development.</p> <p>Flexibility is very important in DCO for SRFI in particular, since it is needed to ensure that the development is not disadvantaged by being authorised by a DCO rather than a planning permission. However, the parameters plans are not capable of being amended through the operation of Article 4, only the limits of deviation set out in (a) to (c). The purpose of (a) to (c) is to allow for the need for flexibility arising from construction issues.</p>
1.12	A12	Applicant SCC	I understand this article to be concerned with the new rights of way that are proposed to be created. Should there also be provision made within the DCO for the construction and delivery of the routes proposed as permissive paths if these are	The provision of permissive paths is currently proposed to be governed through the Section 106 Agreement (Development Consent Obligation/DCOb) (see paragraph 8 of Schedule 2 of the attached draft which travels with this

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			<p>considered necessary for accessibility purposes? (Paragraph 6.37 of the Explanatory Memorandum (EM) only refers to the means of keeping them permanent once they have been provided).</p>	<p>document (Document 7.7C). This approach was taken at East Midlands Gateway where the Applicant understands it was the preference of the local authority that the obligation was secured as a planning obligation rather than as part of the DCO and the Applicant applied the same approach.</p> <p>The Applicant is content to amend the dDCO and the DCOB so that the provision and maintenance of the permissive paths is included in the dDCO instead. This would take the form of a requirement in Schedule 2.</p> <p>The Applicant also notes that SCC are due to determine an historical application for an amendment to the Definitive Map on 5 April 2019. This may require some amendments to the dDCO to deal with the proposed right of way. The Applicant will continue to liaise with the County in this regard so that any necessary amendments can be made to the dDCO and associated plans.</p>
1.13	A13	Applicant	<p>There appears to be an error in the description in Column 2 to Part 3 of Schedule 6 re the notation of the private footpath between points J and AAA on Document 2.3C. The route appears to be shown by a dashed orange line rather than a blue one.</p>	<p>This is noted. The Applicant will amend the dDCO in the next version to be submitted for Deadline 3.</p>

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1.14	A17	Applicant SCC	Further clarification is sought on the purpose and scope of the provisions in A17 (2) and why these are needed. There appears to be nothing in the wording that limits the provisions to roads within the Order Limits and the provision seem very broad in their scope. What is the specific justification for including these provisions in this draft DCO?	<p>This wording is identical to powers included in other recently approved DCOs (for example the Thames Tideway Tunnel DCO (S.I. 2014 No. 2384) article 18 (3)). The power is included to ensure that the undertaker is able to regulate traffic (not only within the Order limits) with the consent of the relevant traffic authority and avoid the need for further orders to be obtained. This is consistent with the objective of a one-stop shop.</p> <p>The article contains the overriding safeguard that the consent of the traffic authority is required. Under A17(3) the traffic authority may require that consultation is carried out.</p> <p>The Applicant will respond to HE's position in full once it has received HE's written representations.</p>
1.15	A20	Applicant	The provisions in A20 (1)(e) could potentially circumvent the need for the normal statutory process to be followed in relation to the stopping up or diversion of a highway and deprive those who might be affected by such a proposal of the opportunity to comment on or object. What is the specific justification for including these provisions in this draft DCO?	<p>The ability to enter into agreements with respect to the stopping up or diversion of a highway does not negate the need to obtain the statutory authority for such stopping up, it simply allows (and does not compel) the authority to enter into an agreement in that respect (e.g. the undertaker might agree to make a contribution for the authority to pursue such stopping up).</p> <p>The article is also included in similar format in other DCOs, such as the Thames Tideway Tunnel</p>

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				DCO (S.I. 2014 No. 2384) and The East Midlands Gateway Rail Freight Interchange and Highway Order (S.I. 2016 No. 17).
1.16	A22	Applicant	(i) What is the basis/ rationale for specifying 28 days' notice in A22 (2)? (i) Is there any precedent for adopting this time period?	The extended time period of 28 days rather than 14 which has been previously commonly used is included following comments from the ExA of another Examination (Northampton Gateway) that 14 days is not sufficient, given that it is conceivable that a person might be on holiday for that length of time. The suggestion is that 28 days gives a reasonable notice period, allowing for normal lengths of absence.
1.17	A35	Applicant	I note that s A46 (3) disapplies the provisions of the Neighbourhood Planning Act (NPA) 2017 and that paragraph 6.97 of the EM states that this is because the relevant parts of the NPA have not yet come into force. However, the NPA provisions might be taken to give an indication of what Parliament considers to constitute reasonable notice periods in temporary possession situations and the right of the owner to serve a counter notice. What justification is there for adopting shorter periods proposed and for not including any right to serve a counter notice in the circumstances of this draft DCO?	The disapplication of the NPA is required to provide certainty for both the Applicant and the landowners/occupiers potentially affected by the use of the temporary possession powers as to which regime is to apply. The temporary possession provisions in the NPA 2017 are not yet in force and there is no indication as to when these provisions will come into force or whether they will be brought into force in their entirety. Further, there is no indication of the nature of any proposed transitional provisions, and/or the extent to which the powers, as brought into force, could conflict with this DCO. Accordingly it is not considered appropriate to apply the NPA 2017 provisions to this DCO.

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				<p>The ExA will appreciate that there is a need for infrastructure schemes to make use of these temporary possession powers in order to ensure that delivery is not impeded. The period is considered to be fair in the context of this DCO, for which there are limited parcels of land affected, and it will be known by all parties from the outset, rather than risk having a longer period applied if and when the NPA amendments do come into force should any transitional or saving provision be applied. The parcels of land proposed to be subject to temporary possession are small areas of agricultural land and the proposed notice period is sufficient to enable affected owners/occupiers to prepare for possession being taken.</p> <p>With regard to the counter notice provisions, the Applicant does not consider it appropriate to include provision for this in the draft DCO. There is no process for this currently set out in statute and its inclusion would require drafting a bespoke process and the need to ensure that the Tribunal would have jurisdiction to determine the counter-notice where no such process for determination currently exists in law. To seek to draft and create a bespoke a determination process for counter-notices for this DCO would be disproportionate to the powers sought, and the Applicant is not aware</p>

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				<p>of any other recent DCOs (granted post NPA 2017) which have included such provision. In any event it is not considered that the exercise of temporary possession powers as proposed to be authorised by the DCO is likely to result in any material detriment.</p> <p>The Applicant also notes that other recent DCOs made since the NPA 2017 have the same notice periods proposed by articles 35 and 36 of this DCO (e.g. The A19/A184 Testo's Junction Alteration DCO (S.I. 2018 No. 994, The Eggborough Gas Fired Generating Station DCO (S.I. 2018 No. 1020) and The Silvertown Tunnel DCO (S.I. 2018 No. 574)). Similarly, the hybrid bill for Phase 2 of HS2 which is currently before Parliament, does not seek to incorporate the longer period proposed in the NPA 2017, nor to include a bespoke counter-notice procedure.</p>
1.18	A35	Applicant SCC	The amendments made to A35 (4) have resulted in some awkward wording. Further clarity might possibly be added to avoid the possible reading that the provision requires the undertaker to both remove and restore any temporary highway access.	The Applicant will give the wording further consideration and any revised wording will be included in the dDCO to be submitted for Deadline 3 .
1.19	A36	Applicant SCC	The amendments made to A36 (5) have resulted in some awkward wording. Further clarity might	As per ISH1:1.18 above.

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			possibly be added to avoid the possible reading that the provision requires the undertaker to both remove and restore any temporary highway access.	
1.20	A43	Applicant SSDC	Given that the proposed development requires the felling of a small number of veteran trees and some lengths of important hedgerows is there a need for a specific provision to be included in the DCO which gives consent for this felling and removal? (See paragraphs 22.1 & 22.2 of AN15).	<p>The Applicant is considering the need for the addition of some extra wording to this article and A46 (to remove the need for any necessary consents under the Hedgerow Regulations 1997), and the addition of reference to an appropriate schedule or reference in the environmental statement.</p> <p>The veteran trees to be retained are specifically identified on the Green Infrastructure Parameter Plans and are therefore protected by the need to comply with the Parameters Plans by virtue of A4.</p>
1.22	A46	Applicant	<p>i) The first paragraph of A46 is not numbered in the revised draft DCO.</p> <p>ii) What is the justification for the provisions set out in the first paragraph and what precedent, if any, is there for including such provisions in the DCO?</p>	<p>i) Noted – all formatting will be double checked and corrected in the next version of the dDCO to be submitted for Deadline 3.</p> <p>ii) The Applicant has reviewed these provisions recently and, having regard to article 21(7), which explicitly acknowledges that the DCO does not override the need for an environmental permit, articles 46(1)(a) and 46(2) will be removed from the version of the dDCO to be submitted for Deadline 3.</p>

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			<p>iii) Has the EA been consulted about the proposal to include these provisions given that it would likely be the relevant regulatory authority in relation to the legislation and statutory instruments listed in sub paragraphs (a) to (f)? (See Good Practice Point 10 in AN15).</p>	<p>iii) Discussions have been ongoing with the EA in relation to the scheme generally and a Statement of Common Ground has been agreed in respect of the scheme which is being submitted at the same time as this document. The EA has now confirmed it is content with the drafting of the dDCO. This confirmation is contained in an e mail from the Environment Agency, Appendix 2.</p>

ISH1 Agenda Annex 3: Draft DCO – Schedules 1 and 3-13 (Agenda Item 5)

COMMENTS AND QUESTIONS BY EXAMINING AUTHORITY

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
1.23	S1 Part 1	Applicant	The numbering of sub paragraphs under the heading of " <i>Works No. 1</i> " appears to have gone awry in both the tracked changes and clean versions of the revised draft DCO.	Noted, the Applicant will amend the dDCO accordingly.
1.23	S1 Part 1	Applicant	In Works No. 2 sub paragraph (g) what facilities and operations are envisaged under the reference to " <i>rail freight terminal refuelling</i> " and where are any structures or facilities required for this purpose indicated on the plans submitted with the application?	<p>The refuelling activities would take place in the area of the cripple siding to the southern end of the rail freight terminal should such facilities be required. Fuelling for reach stackers and/or any shunt locos on site could be provided for during the start-up phase using mobile bowlers visiting the site as required. In the longer term if reach stackers are still required on site a tank could be supplied as a standalone piece of plant without requiring a building to house it, such that this could then be removed from site once electric gantry cranes are deployed.</p> <p>The Applicant agreed at the ISH to submit further detail including scale and location. This information will be provided for Deadline 2.</p>
1.24	S1 Part 1	Applicant	In Works No.3 sub paragraph (e)what works are anticipated over and above the " <i>rail linked warehousing sidings</i> " which are shown on the plan	The warehouses constructed within Works No 3 in Zones A1 and A2 are to have the ability to be directly connected to rail, accordingly, there may

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			at Document 2.14 and appear to be within the site area of Works No.2?	be on plot rail infrastructure required to facilitate such connection. This may take the form of access across the boundary between the rail terminal or rail linked warehousing sidings to be opened up to allow lifting equipment to operate freely between the rail areas and the warehousing potentially under a warehouse canopy. Alternatively it may take the form of an additional siding directly into the warehouse. The Applicant will consider the wording and whether any greater clarity can be provided in the next dDCO to be submitted for Deadline 3 .
1.25	S1 Part 1	Applicant SCC	Works No. 5 includes reference to signage and street lighting but these items are not referenced in Works No.4. Should they be included?	Street lighting is included at item (m) of Works No. 4. Signage will be added to Works No.4 in the next version of the dDCO to be submitted for Deadline 3 .
1.26	S1 Part 2	Applicant	Are the community parks likely to involve lighting, signage, hard landscaping and built structures/furniture that might need to be listed under Works No.6?	The submitted framework ecological management and maintenance plan specifically explains that there will be no lighting in the community parks, but the Applicant will review the contents of Works No. 6 further and any necessary amendments (such as the inclusion of furniture (e.g. benches) and signage, as requested by the Canal and River Trust) will be made in the next version of the dDCO to be submitted for Deadline 3 .

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1.27	S1 Part 2	Applicant	<p>Item (c) of Works No.9a refers to “<i>underground cabling in Works No.4</i>” but these works are not listed in Works No.4. There is a similar cross reference in Works No. 9b to underground cabling in Works No.6 but those works are not listed in Works No.6.</p> <p>(i) Are these omissions?</p> <p>(ii) What is the extent of the underground cabling in the central part of the site?</p>	<p>(i) This has been dealt with by way of the site wide “further works” in Schedule 1 (see paragraphs (1)(b), (2)(e) and (3)(g): “<i>the diversion and provision of utilities services including the underground cabling to connect into Works Nos. 9a and 9b</i>”. However, given the specific references to Works No 4 and 6 in Works No 9a and 9b, it is suggested specific reference to cabling be added to those works in the next version of the dDCO to be submitted for Deadline 3.</p> <p>(ii) This specific reference to the underground cabling (i.e. the link to Works Nos. 9a and 9b) relates to the diversion of the existing overhead lines underground. The Applicant confirms that other than at either end of the proposed underground diversion (i.e. in the areas of Works No. 9a and 9b), where there will be plant for the switching from the pylons and over ground cabling to underground, there is no above ground cabling.</p>

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
			(iii) Do they also extend into the site area of other Works (for example Nos. 3 & 7)?	(iii) See above. The Applicant will consider whether any further Works descriptions need to be amended for clarity.
1.28	S1 Part 2	Applicant	Would Development Zone A3 have any other vehicular access than via part of the private estate road included within Works No.10a? If not, this might suggest that the main purpose of the first section of that road is to provide access to the authorised development and give rise to the question of whether it is properly included in Part 2 of S1 as 'Associated Development' when all other key access roads are listed in Part 1.	Works No 10a serves several purposes including accessing Zone A3, accessing the Gravelly Way Farm buildings (Works No. 8) and providing access to the SI Facility. It would not be correct to attribute a main purpose to any of those and accordingly it was felt that the Works were properly categorised as Associated Development, however, if desired, the works could be categorised as part of the NSIP instead. This would only affect the categorisation in Schedule 1 and has no other consequences. The Applicant confirms there is no legal consequence of this work forming part of Part 2 of Schedule 1.
1.29	S13 Part 3	Applicant SCC	Paragraph 2 (2) includes a definition for the term " <i>country link road</i> " but that term does not appear to be used in S13 Part 3. Neither is the road identified by this notation on the plans at Document 2.10. Is the definition needed?	Apologies for this. This is a typographical error and some old drafting. It refers to what was previously defined as the "County link road" but which is now replaced with the "A5/A449 link road". The Applicant will amend the next dDCO to be submitted for Deadline 3 accordingly.
1.30	S13 Part 6	Applicant	How do the provisions within Part 6 relate to the SI remediation works and programme or are these dealt with separately?	The provisions in Part 6 are for the benefit and protection of SI and give them the right to be involved in aspects of the development which may

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
				<p>affect their operation. The provisions have been agreed with SI.</p> <p>Requirements 2, 12 and 13 deal with phasing of the works and deal with contamination.</p> <p>The Statement of Common Ground with the Environment Agency (Document 8.2 [AS-026]) confirms that the approach to remediation has been agreed with the EA.</p>

ISH1 Agenda Annex 4: Draft DCO Schedule 2 – Requirements (Agenda Item 6)

COMMENTS AND QUESTIONS BY EXAMINING AUTHORITY

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
1.31	Part 1	Applicant SCC HE	Have the definitions and locations of “ <i>early arrival</i> ”, “ <i>extended stay</i> ” and “ <i>operational</i> ” bays been agreed?	<p>As confirmed at the ISH, the definitions of the “<i>early arrival</i>” and “<i>operational</i>” bays as set out within the amended dDCO (Document 3.1A) are acceptable to SCC.</p> <p>In accordance with SCC’s comments, the definition of “<i>extended stay</i>” bays will be amended in the next dDCO to make clear that the need for the bays relate to the statutory drive-time directives, not the authority’s requirements.</p> <p>The location of that parking falls to be considered when details are submitted pursuant to R3.</p> <p>As noted at the ISH, following further review, the Applicant proposes to make additional amendments to Part 1 in order to ensure that all documents referred to in Schedule 2 are captured in the interpretation. The amendments will be made in the next dDCO to be submitted for Deadline 3.</p>
1.32	Part 1	Applicant	The word “ <i>shall</i> ” still appears in a small number of the requirements (3, 7 & 18) where other wording, such as “ <i>must</i> ” may be more appropriate. As in	The Applicant will review the requirements for consistency and will amend the next dDCO to be submitted for Deadline 3 accordingly.

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
			respect of the articles a consistent approach is to be preferred.	
1.33	Part 1	Applicant	Where requirements cross reference an application document it would be helpful for the document reference to be included in the text; e.g. the reference to the Design and Access Statement in R3.	This is noted and the Applicant will consider this approach to the drafting. However, for consistency, it might then be appropriate for all documents and plans referred to throughout the dDCO to include the document reference, which does not appear to be the conventional drafting approach. The terms are defined and the Applicant has included specific details on the document number, reference and revision in the updated Schedule 15 to the dDCO which appears to be aligned with more recently approved DCOs e.g. Schedule 10 of the A19/A184 Testo's Junction Improvement Order (S.I. 2018 No.994) and The M20 Junction 10a Development Consent Order (S.I. 2017 1202) and The A14 Cambridge to Huntingdon Order 2015 (S.I. 2014 No. 547).
1.34	R2	Applicant SSDC SCC HE	<p>i) In the interests of clarity should R2 specify what details are to be submitted as part of the written phasing scheme?</p> <p>ii) Is there a need for R2 to refer to the Indicative Phasing Plan (Figure 4.5 of Document 6.2) since this indicative phasing is referred to at various places in the ES?</p>	<p>i) The Applicant agrees and will consider an amendment to the requirement, based on the wording of the EMG Requirement 2.</p> <p>ii) The Applicant has used the Indicative Phasing Plan as a tool to assist the preparation of the Environmental Statement, however, the assessments were not specifically tied into to that phasing. A level of flexibility in the phasing is</p>

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
				<p>needed in order to protect the way in which occupier requirements can be accommodated and come forward.</p> <p>However, the Applicant has been careful to include other mechanisms within the DCO which would ensure the phasing of important elements of the development is protected. For instance, Requirement 17 commits key elements of the landscaping and ecology works to be delivered at specific stages of the development. Requirement 25 applies the same approach to the highways works and, the timing and delivery of the Rail Terminal will be controlled within the DCO (see response to iii) below).</p> <p>Authors of the Environmental Statement chapters were aware that the phasing was illustrative, and this is why key control documents, such as the Framework Ecological Management Mitigation Plan, the Outline Demolition Construction Environmental Management Plan or the Bespoke Noise Mitigation Scheme, include specific controls which would apply under any phasing plan and would ensure satisfactory environmental outcomes consistent with the Environmental Statement. Therefore, it is not anticipated that additional significant environmental effects could arise from a different phasing and the Applicant</p>

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
			<p>iii) In the interests of certainty should R2 specify a stage in the development of the proposed warehousing by which the Initial Rail Terminal must be completed and available for use? (see R2 of the East Midlands Gateway RFI DCO)</p> <p>iv) Would it be helpful, for the purposes of cross referencing in subsequent requirements, for R2 to include the words "<i>approved phasing scheme</i>" or similar wording?</p>	<p>does not consider that the Indicative Phasing Plan should be referred to in R2.</p> <p>iii) As discussed at the ISH, the timing and delivery of the Rail Terminal was intended to be controlled by the obligations in Schedule 1 of the Draft Development Consent Obligation (Document 7.7C). Following the ISH and following discussions with SCC and SSC, the Applicant intends to move the rail obligations from the S106 to Schedule 2 of the dDCO and will include this in the next version of the dDCO to be submitted for Deadline 3.</p> <p>iv) The Applicant agrees this would facilitate cross referencing and will include this in the next version of the dDCO to be submitted for Deadline 3.</p>
1.35	R3	Applicant SSDC	Would it provide greater clarity if the first sentence of R3 (5) was moved to the end of R3 (1)?	<p>The Applicant agrees and will amend the next dDCO to be submitted for Deadline 3 accordingly.</p> <p>In addition, following further review, the Applicant proposes to amend R3 (1) by replacing "<i>must be in general accordance with the Design and Access Statement</i>" with "<i>must be in general</i></p>

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
				<p><i>accordance with the design principles set out in Section 7 of the Design and Access Statement</i>".</p> <p>Also, the Applicant proposes to add "<i>bridges</i>" to the list of details in R3 (2).</p>
1.36	R4	Applicant SCC SSDC	As it is likely that SCC would be consulted on these details before SSDC issued any approval under R3 is R4 needed?	<p>It was confirmed at the ISH that this question related to R3(4), not R4.</p> <p>The Applicant agrees with the point made by the ExA and considers that there is no need for the Requirements to specify the need for consultation.</p>
1.37	R6	Applicant SSDC	I have concerns about the proposed exclusion of " <i>landscaping works</i> " from the construction hours restriction. These works could have significant potential to generate noise and some of these works would be likely to close to sensitive receptors. What is the justification for this proposed exclusion?	The Applicant agrees with the point made by the ExA and will remove ' <i>landscaping work</i> ' from the exclusion of the construction hours restriction in the next revision of the dDCO.
1.38	R9	Applicant SSDC	<p>i) Would "<i>heritage assets</i>" be a more appropriate description that "<i>heritage receptors</i>" or is there a specific reason for this wording?</p> <p>ii) There is potential for confusion between the requirements of paragraphs (2) and (5) as to when</p>	<p>i) The Applicant has no objection to referring to heritage assets rather than receptors and will amend the next dDCO to be submitted for Deadline 3 accordingly.</p> <p>ii) The Applicant agrees and will incorporate the amendment in the next revision of the dDCO.</p>

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
			demolition can take place. Greater clarity might possibly be provided if R9 (2) is incorporated within R9 (3) and R9 (5) is reworded to require that the demolition of any asset must not take place until written confirmation that all of the works required under paragraph 3 (a)-(c) have been completed has been submitted to the LPA.	
1.39	R10	Applicant SSDC	Would it be better simply to state that " <i>demolition of the canal crossings ... must be completed within 5 years...</i> "?	The Applicant agrees and will incorporate the amendment in the next revision of the dDCO.
1.40	R11	Applicant SSDC SCC	Is it sufficient that the Ecological management and Mitigation Plan should be in accordance with the Framework plan or is there a case for more specific requirements as done in R10 of the East Midlands Gateway DCO?	<p>The Framework Ecological Management and Mitigation Plan (FEMMP) is a substantial document and prescribes greater details than the principles set out in EMG R10. It prescribes overarching measures, broken down by habitat and species. The FEMMP was drafted noting comments from SCC that the FEMMP should include clear measures, rather than general aspirations. In this way, the WMI FEMMP deliberately goes further than the approach taken at EMG and sets out specific requirement within which the development must come forward. It is considered that compliance with FEMMP for plot specific plans is sufficient.</p> <p>SCC agreed with this approach at the ISH.</p>

Q Ref.	Part DCO	of	Directed to	Question/ comment	Applicant's Response
1.41	R15		Applicant SSDC	<p>i) Is R15 (e) intended to refer to hedgerows to be retained and, if so, would a rewording of this requirement add clarity to its purpose?</p> <p>ii) Would additional clarity be added by amending (g) to require the submission of a programme for the implementation of the works?</p>	<p>i) The Applicant agrees and will incorporate the amendment in the next revision of the dDCO to be submitted for Deadline 3.</p> <p>ii) The Applicant agrees and will incorporate the amendment in the next revision of the dDCO to be submitted for Deadline 3.</p>
1.42	R16		Applicant SSDC	<p>The wording of R16 (1) is a little awkward.</p> <p>(i) Why is this needed and could the wording be simplified?</p> <p>(ii) If it is necessary to exclude landscaping works undertaken as part of highway works would this be better stated in the requirement as per R9 of the East Midlands Gateway DCO?</p>	<p>i) The Applicant agrees and will incorporate the amendment in the next revision of the dDCO to be submitted for Deadline 3.</p> <p>ii) The Applicant agrees and will incorporate the amendment in the next revision of the dDCO to be submitted for Deadline 3.</p>
1.43	R20		Applicant SSDC	<p>i) In instances where it would not be practicable to meet the limit set in R20 (1) would it be desirable to include a requirement to obtain prior approval to that exceedance? (See R21 of East Midlands Gateway DCO).</p>	<p>i) As discussed at the ISH, SSDC do not consider that set noise limits are the most appropriate way to control and monitor noise. SSDC have suggested the draft Requirements in the Northampton Gateway DCO, which states:</p> <p><i>"The management of construction noise shall be carried out in accordance with the relevant Phase specific Construction Environmental Management Plan. If required by the LPA, consents under S61</i></p>

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
			<p>ii) Is there a need for R20 to require the carrying out of regular noise monitoring during the construction period to ensure compliance with the imposed limit?</p> <p>iii) Would R 20 (1) be made clearer if the wording specified that the limit applies to noise generated by construction and demolition works?</p>	<p><i>the Control of Pollutions Act will be sought for specific phases of the works"</i></p> <p>The Applicant agrees and, on this basis, it is proposed that R20 (1) will be replaced by precise wording which is currently being agreed through the SoCG process.</p> <p>ii) The Applicant agrees, and the wording of a Requirement is being agreed through the SoCG process.</p> <p>iii) The Applicant agrees and will incorporate the amendment in the next revision of the dDCO to be submitted for Deadline 3.</p>
1.44	R21	Applicant SSDC	i) As drafted R21 does not impose any limits for operational noise for any part of the development or any monitoring requirements. How does this secure the protection of sensitive receptors?	i) The protection of receptors is achieved through a combination of an extensive green infrastructure network including the use of landscape bunds and fencing to screen residential receptors from noise generating activities, a commitment to use high quality building materials, the use of the buildings themselves as noise screens, location of the rail terminal adjacent to the existing WCML away from immediate residential receptors, and the

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
			<p>ii) Should the wording from R20 (2) also be repeated in R21 to control reversing alarms on all vehicles servicing the RFT and the warehousing units?</p>	<p>implementation of a bespoke noise insulation scheme.</p> <p>The provisions in the Requirements need to be read together with the obligations in the draft Section 106 Agreement.</p> <p>It was agreed with SSDC that further control of operational noise limits is not necessary. However, the Applicant is still discussing requirements for noise monitoring.</p> <p>ii) The majority of operators do not have control over all of the vehicles that visit their sites; they will often be visited by supplier vehicles and the nature of their reversing alarms is not within the operator's control. Whilst this outcome can be encouraged, this would be unenforceable as a requirement.</p> <p>A requirement could be limited to all site-based vehicles, i.e. those that are owned or leased by the operators and remain within the site boundary. Suitable wording will be included in the next version of the dDCO.</p>
1.45	R27	Applicant SSDC	<p>i) What is the justification for the exclusion of earthworks and ecological mitigation works from this requirement?</p>	<p>i) Following the discussion at the ISH, the Applicant has proposed to remove '<i>earthworks</i>' and '<i>ecological mitigation works</i>' from R27's exclusion.</p>

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
			ii) R27 (1) should identify the Document references where the flood risk assessment and site wide drainage strategy are contained.	ii) The expressions " <i>flood risk assessment</i> " and " <i>site wide surface water drainage strategy</i> " are defined at the beginning of Part 1 of Schedule 2 by reference to their location in the environmental statement.
1.46	R28	Applicant SSDC	As drafted R28 does not include any timing clause and would not, therefore, meet the relevant tests. What wording is required to rectify this omission?	The Applicant agrees and will amend the requirement to include a clause to control the timing of implementation of the drainage strategy. This will be included in the next dDCO to be submitted for Deadline 3 accordingly
1.47	Part 2	Applicant	Paragraph 3 (3) of this Part defines time limits for the appointed person to issue a decision on any appeal. What rationale/ justification can the applicant provide for the periods proposed and are there precedents for these?	The inclusion of the time periods for determination of the appeal is to ensure that there is a clear route and timeline to a decision so as to avoid delay in delivery of the scheme. At the moment the decision maker is the only party to the timeline to whom no time period is applied and there seems to be no reason why this should be the case.

ISH1 Agenda Annex 5: Draft Development Consent Obligations (DCOb) (Agenda Item 7)

This Annex relates to an earlier draft of the Development Consent Obligation – see Note 3 at the outset of this document.

COMMENTS AND QUESTIONS BY EXAMINING AUTHORITY

The Applicant provided an explanation of the changes to the updated draft DCOb which was submitted to the ExA ahead of the ISH (**Document 7.7C** [AS-023]) and confirmed it would provide a copy of the Employment Skills and Training Plan (ESTP) which is referred to in the DCOb. The ESTP is attached to this document at **Appendix 3**. It has reached an advanced stage of agreement with SCC and SSDC.

Q Ref.	Part of DCOb	Directed to	Question/ comment	Applicant's Response
1.48	General	Applicant SSDC	In the interests of clarity should all references to obtaining the approval of the District Council or other bodies be worded so as to require " <i>written approval</i> "?	This is correct, all approvals should be written. There is a clause in the draft DCOb which requires that all approvals be in writing.
1.49	1.1	Applicant	Some definitions and figures have still to be completed.	Noted. The draft is still a working draft and the Applicant is in discussion with the District and County Councils.
1.50	1.1	Applicant	" <i>Implementation</i> " is defined only by reference to the 1990 Act; should there be a reference to S155 of the 2008 Planning Act?	It could be either – consideration will be given to this with the local authorities.
1.51	1.1	Applicant	There appears to be a typographical error in the definition of "Index".	Noted. The Applicant will review this.
1.52	1.1	Applicant	" <i>Obligation Land</i> " is defined as the " <i>land edged red on Plan A</i> " but there is no plan marked " <i>Plan A</i> " attached to the draft deed. The plan included in the	The approach to the Obligation Land is under discussion with the local authority however it is obviously the case that not all the Order limits will

Q Ref.	Part of DCOB	Directed to	Question/ comment	Applicant's Response
			draft DCOB (TerraQuest Drawing No. 1710-7760_512 v0.1) shows the extent of Mr Monckton's ownership and the rest of the area to be referenced in preparation for the submission of the Land Plans and Book of Reference. Given that Mr Monckton's ownership appears not to include the majority of the land within the Order Limits that lies to the west of the WCML or a large part of that to the south of Vicarage Road clarification is required as to what land parcels would be bound by the proposed Development Consent Obligations. A revised plan that clearly shows this is also required.	<p>be bound since the entirety of the Order limits is not under the Applicant's control nor will it be at the time the agreement is entered into. What is required is to ensure that sufficient land is bound with the appropriate obligations to ensure that the obligations are sufficiently secured.</p> <p>The latest draft of the s.106 agreement deals with this in clause 6.1.2.</p>
1.53	S1:1.1	Applicant SSDC	<p>i) The wording "<i>at the same time as ... the Development</i>" is unclear as to what timescale is intended by the obligation in 1.1.</p> <p>ii) There appears to be no definition in the draft document of "<i>the first phase of development</i>". Is one required in order to clarify the intention of this obligation?</p>	The Applicant will consider these concerns and refine the drafting to provide more certainty in the version to be submitted at Deadline 3 .
1.54	S1:1.2	Applicant SSDC SCC	i) Why could this not be dealt with by a requirement? (See Q1.34)	i) See the Applicant's response to ISH1:1.34. The Applicant also notes the ExA's comment that there is a preference for items to be dealt with by requirements where possible, rather than by section 106 obligation. The rail components of the DCOB are now likely to be moved to Sch 2 of the dDCO in the next version, to be submitted for Deadline 3 .

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
			<p>ii) Have the proposed trigger points been agreed with other parties?</p> <p>iii) The inclusion of the words "<i>unless otherwise agreed...</i>" raises possible concerns with regard to the undertaker's commitment to delivering this key component of the proposed development.</p>	<p>ii) These are under discussion with SSDC</p> <p>iii) These words should not give rise to that concern since the control rests with the SSDC not the Applicant. These words are simply a prudent measure to ensure that unforeseen circumstances affecting delivery and outside the control of the Applicant are capable of being taken into account.</p> <p>The Applicant would highlight that to qualify as an NSIP under the 2008 Act, both rail and warehousing components are needed. Paragraph 4.38 of the NPSNN states that the "initial stages of the development must provide an operational rail connection". The term "initial stages" is not elaborated upon in the Policy Statement. The term was considered by the Secretary of State in the East Midlands Gateway DCO (see paragraphs 14 – 26 of the SoS decision, attached at Appendix 4 to this document), where it was accepted that the occupation of up to 260,000 sqm of warehousing before an operational rail terminal was within the scope of the Act and NPS.</p> <p>The Applicant has improved upon the timescales for delivery to those permitted at East Midlands,</p>

Q Ref.	Part of DCO	Directed to	Question/ comment	Applicant's Response
			iv) Should the obligation not refer both to completion of the works and to the Initial Rail Terminal being available for use by the specified time limit?	and gone further in proposing a long stop date for the delivery of the rail infrastructure. iv) The Applicant agrees with the point made and will amend accordingly in the next version of the dDCO to be submitted for Deadline 3 .
1.55	S1:1.3	Applicant SSDC SCC	This clause seems to provide a great deal of flexibility as to when the works might be completed. What circumstances are anticipated that would justify such flexibility?	This wording is required to ensure that the development is not stalled by reasons outside of the Applicant's control. An example of the circumstances envisaged is delay in obtaining possession of the railway to carry out the works which is granted by Network Rail and, can be affected by other works being carried out to the network.
1.56	S1:1.4	Applicant SSDC SCC	This clause seems to provide a great deal of flexibility as to the future use and operation of the Rail Terminal. What circumstances are anticipated that would justify such flexibility	The only flexibility afforded to the Applicant is the ability to obtain a review of the appropriateness of obligation by the local authority. This is considered a prudent measure allowing for unforeseen eventualities to be addressed without the need to apply to the Secretary of State for an amendment to the s.106 agreement or amendment to the DCO.
1.57	S1:2	Applicant SSDC SCC	Although the term " <i>Rail Freight Co-ordinator</i> " is defined in the draft document this part of S1 does not include any obligation on that person to do	This will be dealt with in the updated draft DCO.

Q Ref.	Part of DCOB	Directed to	Question/ comment	Applicant's Response
			anything other than report progress or on the undertaker to actively promote and market the use of the rail facilities to prospective or existing occupiers. Is this a satisfactory level of commitment?	
1.58	S1:4	Applicant SSDC	<p>i) Is there a requirement for membership of the Liaison Group to be approved by SSSDC prior to its first meeting?</p> <p>ii) Is it necessary/ desirable to specify a stage in the development process by which the Group should be established and should hold its first meeting?</p>	<p>i) Membership of the Community Liaison Group is set out in the definition of the term in the DCOB.</p> <p>ii) The wording in paragraph 4.2 provides that the first meeting will need to be held within the first quarter following Implementation of the development. The Applicant agrees that the trigger for the establishment of the group should be amended to ensure this is prior to implementation of the development. This will be reflected in the next draft of the DCOB to be submitted.</p>
1.59	S2:3 & 4	Applicant SCC	i) Is there a requirement for membership of the TSG and the Transport Co-ordinator appointment to be approved by SCC?	The Site Wide Travel Plan deals with the membership of the TSG. Discussions with SCC have indicated that they do not feel it necessary to approve the appointment of the Transport Co-ordinator. This is now agreed with SCC.
1.60	S2:5.1 & 6.1	Applicant SCC	Have the draw down stages been agreed with SCC?	The Applicant is updating the draft DCOB to reflect discussions held with SCC.

Q Ref.	Part of DCOb	Directed to	Question/ comment	Applicant's Response
1.61	S2:8	Applicant SCC	Could the provision of permissive paths not be dealt with by a requirement? (See Q 1.12)	See response to ISH1:1.12. The Applicant is content to deal with permissive paths by way of a requirement.
1.62	S4:1 & S5:1.1	Applicant SSDC SCC	Have the arrangements been agreed?	Discussions are continuing.
1.63	S7	Applicant SSDC	Are the parties content with the use of the term " <i>Applicant</i> " throughout S7 in terms of identifying who is responsible for the required actions?	This will be reviewed.
1.64	S7	Applicant	In S7 the paragraph numbering appears to jump from paragraph 1 to paragraph 4 which renders the paragraph references within the text (e.g. at 5.4) unintelligible. Some revision appears to be required.	The Applicant will address any remaining formatting and drafting issues.

APPENDIX 1

APPLICANT'S NOTE ON dDCO Amendments

Applicant's summary of the nature and purpose of the key amendments to the revised draft DCO

1. The Examining Authority has requested that the Applicant summarise the nature and purpose of the key amendments to the draft Development Consent Order submitted with the application in August 2018 (Document 3.1), being amendments contained in the dDCO submitted on 17 December 2018 (Document 3.1A). Before doing so I thought it might be helpful to briefly explain the overall approach taken to the drafting of the WMI dDCO.
2. Development Consent Orders are a relatively new form of authorisation for a development, with the first order under the new Planning Act 2008 being approved in 2011. There are, therefore, few precedents to inform their drafting. In particular, in respect of the category of nationally significant infrastructure projects that we are concerned with here, being strategic rail freight interchanges, there are only two approved Orders. These are the Daventry International Rail Freight (Alteration) Order 2014 and the East Midlands Gateway Rail Freight Interchange and Highway Order 2016.
3. The interpretation of the legislation, and the conventions to be applied to Development Consent Orders, are still evolving, mostly through discussions and debate at Examinations. Early DCOs were heavily based on model provisions, which were in turn based on Transport and Works Act Orders. Many of these model provisions proved to be irrelevant and inadequate and we are therefore no longer required to follow them.
4. The approved Orders are all very much the product of the stage of the evolution of DCO drafting that had been reached when they were considered; and the particular interpretations and views of the applicant, other interested parties, the Examining Authority and the Secretary of State at that time relating to that particular DCO. Accordingly, it is fair to say that they are constantly evolving and there is no 'right' way to draft a DCO.
5. In the case of the West Midlands Interchange, the approach taken to drafting the original Order was to base it on the most recently approved SRFI DCO, being the East Midlands Gateway Order. That was the starting point but the original draft was materially different from East Midlands Gateway in that:
 - Each scheme is different and therefore large parts of the dDCO are bespoke and are specific to the scheme, for example
 - the description of the Works in Schedule 1;
 - the requirements in Schedule 2 (which are broadly equivalent to planning conditions); and
 - many of the Schedules relating to the specific highway provisions relating to this scheme.
 - The WMI draft has also been influenced by other orders approved since the East Midlands Gateway Order was approved, to which reference is made in the Explanatory Memorandum. These orders demonstrate emerging thinking and, the developing, drafting conventions.

6. Since the WMI application was submitted in August 2018, a further SRFI has been the subject of an Examination, which commenced on 9 October 2018 and will conclude by or on 9th April 2019 (Northampton Gateway). During the course of that Examination, the DCO for that SRFI has been discussed and debated. The Applicant is aware of those discussions, some of which have a bearing on DCO drafting.
7. Therefore, addressing the changes in the WMI draft DCO submitted on 18 December 2018, these fall into **four** categories:
 - i. Changes to address typographical errors or formatting issues, for which apologies;
 - ii. Changes arising from discussions with interested parties following the submission of the application, for example;
 - a. the Protective Provisions in Schedule 13 have been amended in light of ongoing discussions with Highways England, Staffordshire County Council, the Canal and River Trust and Cadent; and
 - b. Amendments have been made to the requirements in Schedule 2 in response to comments made by various parties.
 - iii. Changes to reflect developed thinking as a result of issues raised at the Northampton Gateway SRFI Examination, for example,
 - a. the amendments to Articles 6 and 14 carve out the maintenance of highways from the general maintenance provisions because the maintenance of highways are dealt with separately; and
 - b. changes to Article 21, which is a provision relating to the Discharge of Water and which has been in an identical form in virtually all approved DCO, but it has been amended in response to sensible points made by Highways England and the local highway authority in relation to the equivalent article in the Northampton Gateway dDCO.
 - iv. Amendments arising from revised advice issued by the Planning Inspectorate, such as:
 - a. the addition of Part 2 of Schedule 2 relating to an appeals process for the requirements in Part 1 of Schedule 2, responding to the amended PINS Advice Note 15.; and
 - b. An amendment to the definition of “Secretary of State”, again, in response to AN15.
8. The DCO tracker submitted with the revised dDCO (Document 3.4) identifies each amendment to the original draft DCO and explains the reason for the change.
9. As the Examination timetable anticipates, it is normal for the drafting of Development Consent Orders to be amended as an Examination progresses. The next version of the draft DCO is due to be submitted for Deadline 3 . As the Examining Authority will have noted in the Applicants draft response to the agenda for today’s hearing, some further changes to the dDCO are anticipated in response to the points made by the

ExA in that agenda. In addition, since the last draft was produced, in December, discussions with some interested parties have been ongoing - further amendments have either been agreed or are in prospect in that respect. They will also be reflected in the updated draft to be submitted for Deadline 3.

Finally, there is no draft DCO in its relatively early stages that cannot be improved. The Applicant welcomes any suggestions from all parties and each successive draft will reflect consideration of all suggestions made.

Morag Thomson
Partner, Planning and Infrastructure Consenting
Eversheds Sutherland (International) LLP
28 February 2019

APPENDIX 2

ENVIRONMENT AGENCY EMAIL CONFIRMATION RE DCO

Subject: FW: West Midlands Interchange

From: Field, Jane <jane.field@environment-agency.gov.uk>
Sent: 20 February 2019 14:20
To: Matthew Royall <MRoyall@ramboll.com>
Subject: RE: West Midlands Interchange

Hi Matt

I can confirm that we have checked through the draft submitted DCO, and ourselves and legal team are happy with the provisions and controls detailed within that document.

If you have any queries, let me know

Thanks

jane

From: Matthew Royall [<mailto:MRoyall@ramboll.com>]
Sent: 06 February 2019 16:48
To: Field, Jane <jane.field@environment-agency.gov.uk>
Subject: West Midlands Interchange

Jane

I hope you are well. With regards the above project I wonder if you have any comments on the DCO requirements.

Please find attached the latest version attached, please can you look at the requirements in Schedule 2 and also Article 46. The requirements haven't changed much since the version issued with the submission, but we would welcome comment from the EA.

Regards

Matt

Yours sincerely
Matt Royall

CEnv, SiLC, MIEMA
Principal

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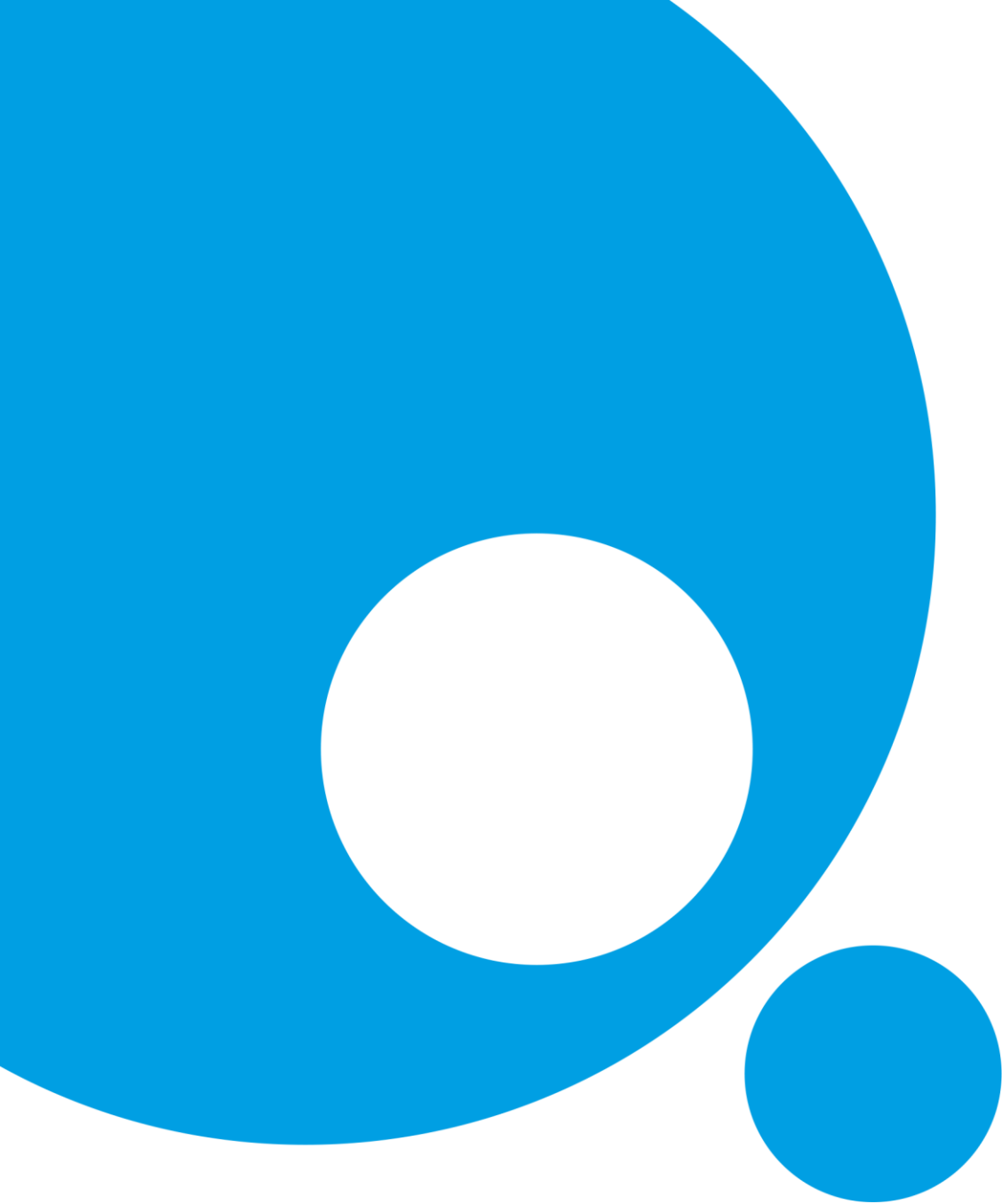
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APPENDIX 3

EMPLOYMENT SKILLS AND TRAINING PLAN



EMPLOYMENT, SKILLS AND TRAINING PLAN FRAMEWORK

WEST MIDLANDS INTERCHANGE

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Glossary of Acronyms

BC LEP	Black Country Local Enterprise Partnership
CSCS	Construction Skills Certification Scheme
CWC	City of Wolverhampton Council
DCO	Development Consent Order
ESTP	Employment, Skills and Training Plan
FAL	Four Ashes Limited
JCP	Job Centre Plus
LEP	Local Enterprise Partnership
SCC	Staffordshire County Council
EFSG	Employment Fund Steering Group
SRFI	Strategic Rail Freight Interchange
SS LEP	Stoke-on-Trent and Staffordshire Local Enterprise Partnership
SSDC	South Staffordshire District Council
TTWA	Travel to Work Area
WMI	West Midlands Interchange

1 Summary of Relevant Parties and Commitments

Relevant Parties

1.1 The Relevant Parties with roles under this Framework are:

- 1.1.1 **Four Ashes Limited (FAL):** The Applicant and the Delivery Body for the Proposed Development.
- 1.1.2 **The Brokerage Coordinators:** Two people employed by SCC or SSDC whose salaries will be paid for by FAL under the terms of the Section 106 Agreement and who will be responsible for coordinating the brokerage system, collecting and analysing monitoring data and chairing the Employment Fund Steering Group.
- 1.1.3 **Tier One Contractor:** A main contractor working on any aspect of the construction of the authorised development who is directly contracted to any developer undertaking any part of the authorised development.
- 1.1.4 **First Time Occupier:** The first occupier to occupy each newly constructed warehouse.
- 1.1.5 **The Employment Partnership:** A group of stakeholders who will act as an advisory group that will provide guidance and industry knowledge to inform decision making by contractors, occupiers, the Brokerage Coordinator and other stakeholders with respect to skills development and training at WMI.
- 1.1.6 **The Employment Fund Steering Group (EFSG):** A decision-making body who will be responsible for directing the spending of the Employment Fund. The group will include the Senior Brokerage Coordinator (chair and non-voting party); FAL (voting-party); Occupier representative (non-voting party); SDC and SCC (voting-party with one vote between them) and CWC (non-voting party).

Commitments

1.2 FAL makes the following commitments in relation to the implementation of the DCO:

- 1.2.1 **Proactively work with SSDC, SCC,** other relevant authorities¹ and their chosen partners to implement this ESTP Framework which supports residents into training and work during both construction and operation.
- 1.2.2 **Meet with the Brokerage Coordinator(s)** at least one month in advance of tendering for the Tier One construction contract to undertake planning relating to the setting up of the Brokerage System.
- 1.2.3 Require each Tier One Contractor and each first-time Occupier to sign up to the Occupier/Contractor Charter and agree a bespoke ESTP.

¹ Including, but not limited to, South Staffordshire's Work Clubs, Job Centre Plus, Department for Work and Pensions, LEPS, other City, District and County Authorities within the TTWA.

- 1.2.4 Require each Tier One Contractor and each first-time Occupier to agree a **monitoring & reporting methodology** with the Brokerage Coordinator.
- 1.2.5 Provide direct funding of **£1.29 million** to support the “**Brokerage Coordinator(s)**.”
- 1.2.6 Provide direct funding of **£1.7 million**, known as the “**Employment Fund**” to support activities to get local people into work at WMI.
- 1.2.7 Provide an additional £1.56 million “**Contingency Employment Fund**” to be triggered if fewer than 12% of employees at WMI come from a period of unemployment or economic inactivity (monitored and assessed as set out in Section 5 of this Framework).
- 1.2.8 Set up an **Employment Fund Steering Group** to direct and manage the spending of the Employment Fund and the Contingency Employment Fund.
- 1.2.9 Establish the **WMI Employment Partnership** which includes local public, private and education sector representatives. Details are set out in Section 6 of this Framework².
- 1.3 FAL will require each Tier One Contractor and first time Occupier to make the following commitments in relation to the implementation of the DCO:
 - 1.3.1 Sign up to the Occupier/Contractor Charter and agree a bespoke ESTP
 - 1.3.2 **Implement the bespoke ESTP (based on the Structure set out in Appendix 3)** to make progress towards the 15 aspirations and targets established in the Framework ESTP.
 - 1.3.3 Agree and implement a **monitoring & reporting methodology** with the Brokerage Coordinator.
- 1.4 SSDC and SCC will have the following roles in relation to the implementation of the DCO:
 - 1.4.1 Spend the agreed £1.29m of funding solely to pay the salaries of the two Brokerage Coordinator posts (as specified in this Framework) unless otherwise agreed between SSDC, SCC and FAL in writing.
 - 1.4.2 Sit on the Employment Fund Steering Group.
 - 1.4.3 Be a member of the WMI Employment Partnership.
- 1.5 FAL expects other stakeholders will:
 - 1.5.1 Engage in the Employment Partnership to provide guidance and advice.
 - 1.5.2 Engage with the Brokerage Coordinators to deliver skills and training services.

² FAL’s representatives have already met with the Local Enterprise Partnerships, Wolverhampton University, recruitment agents, the J2 Steering Group and South Staffordshire College to establish the principles of and interest in the Employment Partnership. The concept has been positively received.

2 Introduction

About this Framework

- 2.1 This document sets out the Employment, Skills and Training Plan (ESTP) Framework for the proposed West Midlands Interchange (WMI) development in South Staffordshire. It has been agreed between Four Ashes Limited (FAL), South Staffordshire District Council (SSDC) and Staffordshire County Council (SCC).
- 2.2 It sets out employment and career development opportunities arising from the development and the Applicant's plan to work with contractors, occupiers and local partners to maximise the potential for local people to access these opportunities.
- 2.3 This document sets out:
 - 2.3.1 What FAL will be committed to, including financial obligations of between £2.99 million and £4.55 million, with regards to supporting local people into work.
 - 2.3.2 What FAL will ensure their contractors and occupiers will commit to.
 - 2.3.3 What the Local Authorities will commit to do (in partnership with the public, charity and education sectors).

Background and Local Context

- 2.4 FAL has engaged with SSDC, SCC, The City of Wolverhampton Council (CWC), the three local LEPs, the i54/J2 Steering Group, Wolverhampton University, South Staffordshire College and local recruitment agencies in the process of drawing up this framework ESTP and comments and views of these stakeholders have been considered.
- 2.5 At this stage in the Application process, FAL does not yet know who their construction contractors or occupiers will be. Contractors and occupiers will start to come on board after the Development Consent Order has been approved.
- 2.6 During construction a range of construction methodologies could be used, each with different skill and employment profiles.
- 2.7 The proposed operational floorspace would be high specification, modern warehousing with the potential for very large floorplates. This space would be suitable for a wide range of potential occupiers from major online and store-based retailers (food and non-food retail) to suppliers of components for manufacturing. There may be both slow moving and fast-moving goods, which will affect the number and type of jobs supported by each occupier and their skills needs.
- 2.8 Any approach to training and employment must be flexible enough to deal with this range of potential contractors/occupiers and to respond to how skills needs could change over time.
- 2.9 This ESTP Framework allows for flexibility in how employment and training initiatives can be implemented in the future. Under the terms of this Framework, Each Tier One Contractor³ and each Occupier⁴ will deliver

³ A Tier One Contractor is a main contractor working on any aspect of the construction of the authorised development who is directly contracted to any developer undertaking any part of the authorised development.

⁴ An occupier of the warehousing comprised in the authorised development.

its own bespoke ESTP that suits their needs, as long as it is based on the aspirations, targets and charters set out in this Framework.

Planning and legal context

- 2.10 West Midlands Interchange will be a Strategic Rail Freight Interchange (SRFI). Full details about the proposals and the planning process are set out in the suite of documents in the Development Consent Order Application.
- 2.11 This Employment, Skills and Training Plan (ESTP) Framework is to be appended to the Section 106 Agreement which will include obligations to ensure it is complied with.
- 2.12 Whether or not to approve the Application for the DCO will be decided by the Secretary of State for Transport. Staffordshire County Council and South Staffordshire District Council will be signatories to the Section 106 Agreement. The City of Wolverhampton Council will not be a signatory but is a key stakeholder and has been consulted throughout the pre-application process and by virtue of the obligations in this document will remain involved.
- 2.13 For the purposes of monitoring the outcomes of this framework, data from Staffordshire County, South Staffordshire District and The City of Wolverhampton will be utilised.

Scale of job creation

- 2.14 WMI would support up to an estimated 8,550 jobs when fully operational. Based on current high-level estimates there could be up to an additional 230 construction jobs at any one time on-site over the 15-year construction period – although projections of construction jobs are highly sensitive to construction methodology and delivery rate, details of which are clearly not known at this stage. Estimates for both construction and operational jobs are based on the information available at the time of the Application and may be subject to revision as more detail about the construction methodology and future occupiers is confirmed, although the evidence supports the estimates as set out.
- 2.15 Details about how the job forecasts have been arrived at and the transport assessment work that has informed the Travel to Work Area are set out in the Labour Market Context report and Supplementary Information contained in Appendix 1 and 2 to this ESTP Framework.
- 2.16 The existing labour market has the capacity to meet the needs of this development. Chapter 14 of the Environmental Statement submitted with the Application, and the Labour Market Context reports, demonstrate that there is a large pool of available labour supply at appropriate skill and occupation levels to support the scale of growth at WMI. This includes residents who are currently unemployed and those who are economically inactive but want a job. This Framework is therefore not required to mitigate any adverse impact of WMI on the labour market, but to enhance the benefits of the development for local people.

Structure of this Framework

2.17 There are six components to this ESTP Framework. These are:

2.17.1 The Objectives of this ESTP

2.17.2 **The Occupier and Contractor Charters** which all Occupiers and Tier One contractors will be required to comply with.

2.17.3 **The Brokerage System** which will be co-ordinated by a funded Brokerage Co-ordinator(s) and will be the link between Occupiers/Tier One Contractors and the Local Authorities and key stakeholders such as Job Centre Plus. The Brokerage Co-Ordinator(s) will be responsible for ensuring appropriate local candidates are informed of and supported through the application process for a new job at WMI.

2.17.4 **The Employment Fund**, which will be an endowment for the Brokerage Co-Ordinators to target at employment and training interventions.

2.17.5 **The Employment Partnership** will be an advisory group that will provide guidance and industry knowledge to inform decision making by contractors, occupiers, the Brokerage Co-Ordinator(s) and other stakeholders.

2.17.6 The process for **Monitoring and Reporting**.

3 Objectives of this ESTP

The 15 Success Metrics

3.1 FAL, SSDC, SCC and CWC have established and agreed 15 *Success Metrics* which this ESTP Framework and the subsequent ESTPs will seek to achieve. The 15 metrics have been divided into two categories:

3.1.1 Aspirations: which are thematic and qualitative; and,

3.1.2 Targets: which are more quantitative and may be monitored through collection of data. The first two of these are “key targets” and are the top priorities for SSDC and SCC.

Aspirations

3.2 Through the partnerships and funding set out in this Framework ESTP, WMI will support:

1. Greater ambition across local businesses, organisations and people of all ages.
2. An increased number of business and education collaborations: schools and colleges will have excellent working relationships with occupants or contractors and hold appropriate events/activities to promote links between education and business.
3. Increased opportunities for local residents to gain employment in higher skilled/higher paid roles on-site.
4. Qualifications which will reflect the future business needs of the site and job opportunities. The WMI Employment Partnership will promote forward thinking and appropriate planning for future curricula and training courses.
5. The work of the WMI Employment Partnership and the Employment Fund, which will improve education, employability and work-readiness, plus improve routes into work using the Brokerage System.
6. Opportunities for improved workforce skills, progression and earnings which will increase, with the aim of reducing gaps to national average on qualification levels.
7. The general economy which will be enhanced; support for the LEP’s aspirations.
8. Increase employment rates and reduce the number of people claiming out-of-work benefits through the substantial opportunities at WMI (monitored within the three authority areas).
9. Assist Local Authorities if required to use the opportunity at WMI to leverage public funds (and grants and the like) to support employment initiatives.
10. Increase the numbers of local long-term unemployed gaining employment.
11. Increase the number of Apprentices at all levels through promotion of the use of the Apprenticeship Levy.

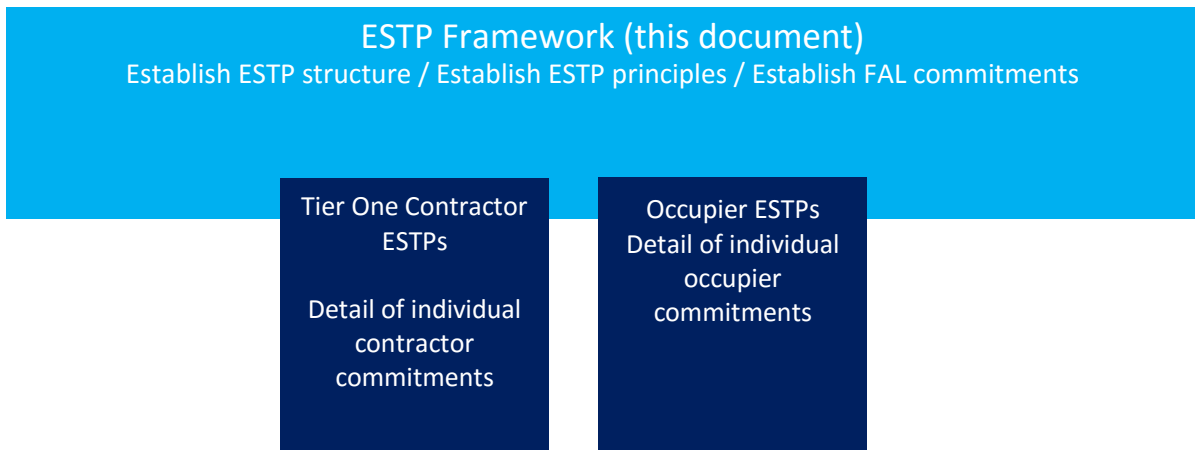
Targets

- 3.3 Through the partnerships and funding set out in this Framework ESTP, WMI will use reasonable endeavours to achieve the following targets. Achievement of these targets will be monitored.
12. **KEY TARGET:** Recruit at least 12% of operational employees from unemployment, as measured one year after first occupation. (See section 5. The WMI Employment Fund on how this is to be calculated)
 13. **KEY TARGET:** Recruit at least 60% of the workforce from within a 10 mile radius of the site (as measured using a straight line distance to postcode of employee's usual place of residence).
 14. Advertise 100% new vacancies on-site through the Brokerage System.
 15. 100% of all candidates submitted for consideration by a Council nominated agency (via the Brokerage System) who fully meet the job specification shall be guaranteed an interview by the Tier One Contractor/Occupier.
- 3.4 This ESTP Framework goes on to demonstrate how FAL and Tier One Contractors/Occupiers will work with SSDC, SCC, CWC (and other local partners) to make progress towards these aspirations and targets and to make the most of the opportunities at WMI.

4 Occupier & Contractor Charter

FAL's Commitment

- 4.1 The Occupier or Contractor Charter will be included in all construction works contracts or lease terms.
- 4.2 It will be provided to each Tier One Contractor and Occupier **at least six weeks prior to commencement or occupation** to allow time for a bespoke ESTP to be prepared and agreed and for early engagement with the Brokerage Coordinator(s) to take place.
- 4.3 Each Tier One Contractor and each first time Occupier will establish its own bespoke ESTP prior to commencement/occupation. This will be based on their own training needs and in-house initiatives but it must, as minimum, state how they will contribute to achieving the 15 Success Metrics and the aims of the obligations set out in the Charters below.



- 4.4 The Charters are as follows.

Contractor Charter

- 4.5 As a Tier One Contractor working at WMI, our firm will:
- 4.5.1 Complete and agree a bespoke ESTP with the Local Authorities before commencement. This will set out how we will contribute to the aims of the 15 Success Metrics.
 - 4.5.2 Attend a Pre-Contract Meeting with the Brokerage Coordinator(s) at least one month in advance of tendering for sub-contractors to discuss:
 - Training objectives
 - In-house training initiatives
 - Methodologies for monitoring and reporting
 - 4.5.3 Provide a detailed programme and an up-to-date schedule of works for the reasonably foreseeable and predictable works packages. Update this schedule in accordance with the monitoring methodology agreed at the Pre-Contract Meeting.
 - 4.5.4 Work with the Brokerage Coordinator(s) to attain paid on-site construction training placements where these positions are needed. These placements would last no less than 13 weeks each.
 - 4.5.5 Brief sub-contractor(s) on the requirements of the ESTP and ensure co-operation is agreed as a prerequisite to accepting sub-contract tenders.
 - 4.5.6 Include a written statement in our contracts with sub-contractor(s) instructing them to liaise with the Brokerage Coordinator(s) to discuss, agree and implement the specifics of the work placements.
 - 4.5.7 We will encourage our sub-contractor(s) to pay Living Wage for work placements.
 - 4.5.8 Submit specifics of paid work placements to the Brokerage Coordinator(s) including:
 - Projected length of placement
 - Trade
 - Wage
 - Employment terms
 - 4.5.9 Connect with schools, colleges and training providers to assist with curriculum development and provide work placements - the relevant schools and colleges to be identified by the Brokerage Coordinator(s).
- 4.6 As a Contractor, including sub-contractors, working at WMI, our firm will:
- 4.6.1 Guarantee an interview to all candidates submitted for consideration by a Council nominated agency who fully meet the job specification

- 4.6.2 Put in place appropriate on-site supervision by a named qualified and/or experienced operative in a trade related to employees identified training needs
- 4.6.3 Have appropriate contractor/director oversight and management on-site.
- 4.6.4 Put in place appropriate measures for trainees'/employees' health and safety for the duration of their placement/employment
- 4.6.5 Take the potential for a lower rate of productivity fully into account when allowing for the level of resource and supervision required for training and work experience.
- 4.6.6 Allow/enable trainees to attend college-based courses either on a day release or block release basis as required/appropriate. These can be organised through the Brokerage System. The contractor must be aware that payments to apprentices will continue during this period.

Occupier Charter

- 4.7 As an Occupier of West Midlands Interchange, our firm will:
 - 4.7.1 Complete and agree a bespoke ESTP with the Local Authorities before occupation of their warehouse for operational purpose. This will set out how we will contribute to the aims of the 15 Success Metrics.
 - 4.7.2 Attend a Pre-Occupation Meeting with the Brokerage Coordinator(s) to set out:
 - Approach to recruitment
 - Training objectives
 - In-house training initiatives
 - Methodologies for monitoring and reporting
 - 4.7.3 Provide in-house training initiatives to meet the specified objectives in the bespoke ESTP.
 - 4.7.4 Interview all candidates submitted for consideration by a Council nominated agency who fully meet the job specification.
 - 4.7.5 Provide a list of vacancies (including skills requirements) to the Brokerage Coordinators as far in advance as possible ahead of the position being required, at least a month in advance of the start of the role, unless in an emergency
 - 4.7.6 Advertise all vacancies locally (as recommended by the Brokerage Coordinator) for at least 10 working days before wider recruitment is undertaken, unless in emergency.
 - 4.7.7 Implement targeted recruitment practices that encourage and support people living within 10 miles of WMI to gain employment on-site
 - 4.7.8 Guarantee that all candidates submitted for consideration by a Council nominated agency who fully meet the job specification shall be given an interview.

- 4.7.9 Have a proactive and positive approach to the wellbeing of staff, including their training needs.
- 4.7.10 Engage with the Brokerage Coordinator(s) on any skills gaps or training needs that have been identified during operation
- 4.7.11 Use Education and Skills Funding Agency approved training providers wherever possible.
- 4.7.12 Work with the Brokerage Coordinator(s) to direct an appropriate part of their Apprenticeship Levy (or equivalent) to be spent with local training providers where possible and where appropriate providers are available in the local area.
- 4.7.13 Connect with schools, colleges and training providers to assist with curriculum development and provide work placements – the relevant schools and colleges to be identified by the Brokerage Coordinator(s).
- 4.7.14 Have structured, clear and attainable paths for career development.
- 4.7.15 Provide opportunities for transferable and key skill development, including literacy and numeracy where needed.
- 4.7.16 Illustrate how the principles of the ESTP could be built into business as usual for the long term.

5 The Brokerage Coordinator and the Brokerage System

FAL's Commitment

- 5.1 FAL will fund the salary of a Senior Brokerage Coordinator to and an administrative support role (together known as the Brokerage Coordinators) to run the Brokerage System.
- 5.2 SCC, CWC and SSDC have established that a Senior Brokerage Coordinator salary and on-costs is £59,000 per year per whole time equivalent employee. Administrative support costs £27,000 per full time equivalent employee. Based on a 15-year construction period, this equates to £1.29million to support two FTE employees for the duration of construction. This fund will be paid per year under the following terms:
- 5.2.1 Each instalment will be £86,000 per annum.
- 5.2.2 The first instalment will be made on the date the first Tier One contractor is appointed, or six months ahead of the commencement of construction, whichever is the later date.
- 5.2.3 The fund will be used solely to deliver the job brokerage service for WMI or such other purposes which will further the job brokerage service for WMI as agreed between SSC, SCC and FAL (for example, in the event of accelerated delivery requiring additional resource, see 5.2.5 below)
- 5.2.4 The instalments will continue every year until the payment of the 15th instalment or until the first occupation of the final warehouse to be occupied, whichever comes first.
- 5.2.5 There will be a mechanism agreed by which, if construction and occupation of warehouses is significantly faster than currently projected, the Brokerage Coordinator(s) will be able to request early drawdown of fees. The total payment will remain the same. This will be agreed via the Employment Fund Steering Group, with FAL's consent not to be unreasonably withheld.
- 5.2.6
- Any monies not used within 15 months of the final payment will be repaid to FAL.
- 5.3 The Brokerage Coordinator(s) will be able to utilise funds from the Employment Fund to assist in carrying out the objectives of the Brokerage System (see Section 5.5 below) subject to the majority decision of the Employment Fund Steering Group.
- 5.4 FAL will provide a desk and meeting space on-site for the Brokerage Co-Ordinator to use temporarily, when on site.

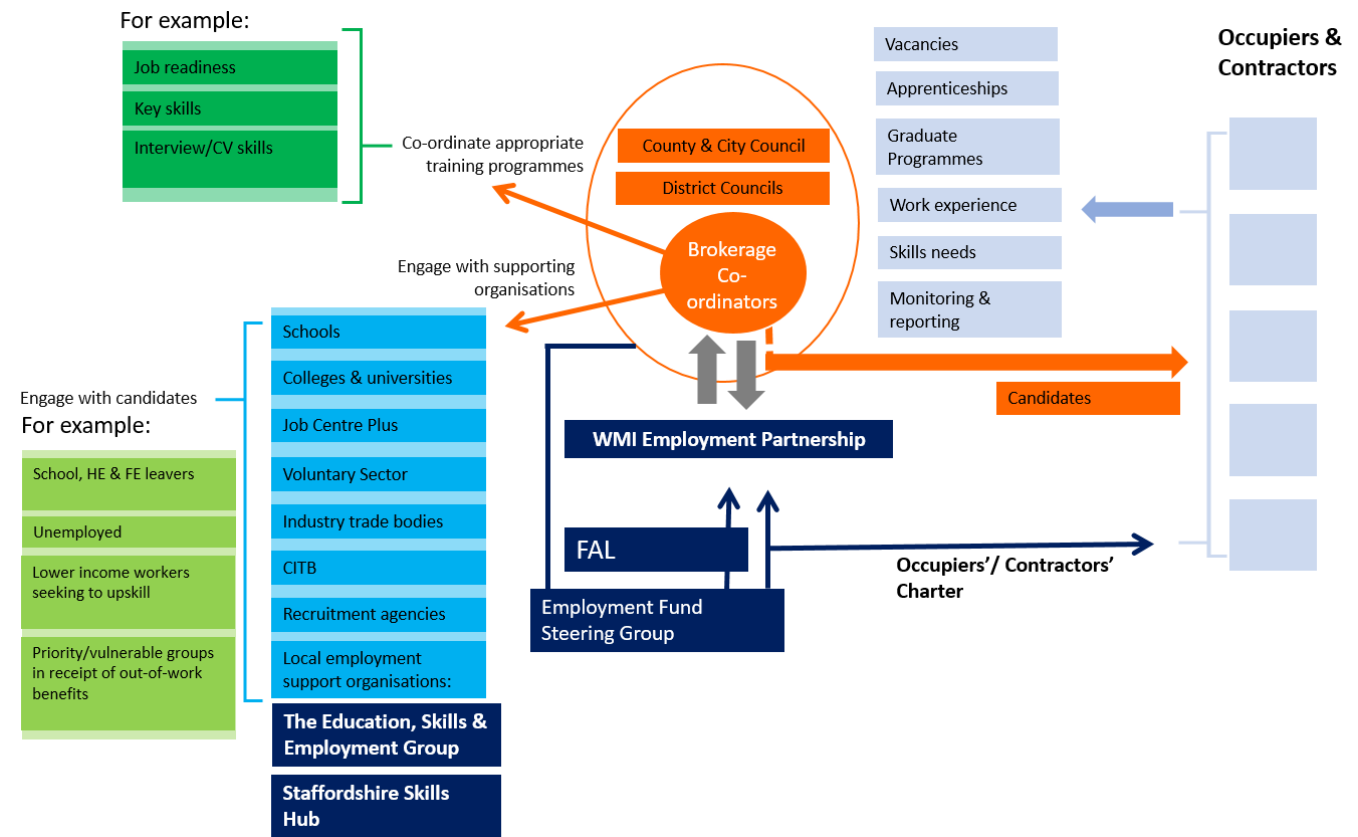
Objectives of the Brokerage System

- 5.5 The objectives of the Brokerage System will be to:
- 5.5.1 Capture all job vacancies on-site from contractors and occupiers and advertise these through the appropriate channels e.g. Job Centre Plus.
 - 5.5.2 Capture all job opportunities for apprenticeships, graduate programmes or work experience opportunities on-site from contractors and occupiers and advertise these through the appropriate channels e.g. Job Centre Plus, schools and colleges.
 - 5.5.3 Direct appropriate candidates from relevant skills, training and outreach programmes to apply for advertised vacancies.
 - 5.5.4 Communicate information on skills gaps (if any are identified) and training needs (including job-readiness requirements) between occupiers and skills providers including via engagement with the WMI Employment Partnership.
 - 5.5.5 Trigger appropriate training programmes under the terms of the **Employment Fund** (subject to agreement from the Steering Group).
 - 5.5.6 Coordinate engagement with schools and training bodies including work experience placements or apprenticeships (where these are not provided directly by occupiers themselves).
 - 5.5.7 Coordinate monitoring and reporting information.

Structure of the brokerage system

5.6 This diagram (Figure 5.1) summarises the relationship between the Brokerage Coordinator(s) and other stakeholders who will, in combination create a system through which information flows to create a Brokerage System.

Figure 5.1: Brokerage Coordinators and the Brokerage System for WMI



Commitments of the stakeholders with reference to the Brokerage System

FAL's Obligations

- 5.7 FAL will meet with the Brokerage Coordinator(s) at least one month in advance of tendering for the Tier One construction contract to undertake planning relating to the setting up of the Brokerage System and to discuss the specifics of the tendering process and how the obligations set out in this Framework will be discharged.
- 5.8 For the construction phase, FAL will state clearly in tender documentation (prior to selecting the main construction contractor(s) that bids need to consider the following requirements):
- 5.8.1 All Tier One Contractors appointed will be required to liaise with the Brokerage Coordinator(s) to ensure the successful and consistent application of their ESTP.

- 5.8.2 The CITB good practice guidelines (or equivalent) to support training and skills on commercial developments will be adopted as the minimum standards on this site in relation to the construction vacancies.
- 5.9 For the operational phase, FAL will inform potential Occupiers of this ESTP Framework and of their obligation to produce a bespoke ESTP.
- 5.10 A skeleton structure for the bespoke ESTP is appended at Appendix 3.

Brokerage Coordinators' Obligations

- 5.11 The Brokerage Coordinator(s) will:
- 5.11.1 Identify on-going training needs and communicate these to the WMI Employment Partnership and the Employment Fund Steering Group.
 - 5.11.2 Monitor candidates after placement to assess sustainability of employment and make suggestions on strategies for improved staff retention, if required.
 - 5.11.3 Direct the Employment Fund⁵ to provide Construction Skills Certification Scheme (CSCS) card funding and safety equipment to local people taken on through the project where required (i.e. unless these requirements are fulfilled by the contractor/sub-contractor).
 - 5.11.4 Circulate vacancy details to suitable local resident facing services such as Job Centre Plus and match suitable candidates to job specifications for consideration at interview by the contractor or sub-contractor/s.
 - 5.11.5 Screen applications against job specifications and direct suitable applicants in how and where to apply.
 - 5.11.6 Assist the contractor and sub-contractor(s) in identifying suitable local companies to source goods and services from in the local area to supply the ongoing operational needs of the development.

⁵ Subject to agreement under their terms

6 THE WMI Employment Fund

- 6.1 It is FAL's intention that all Tier One Contractors and Occupiers will comply with their respective Charters and submit and implement their own ESTP to contribute to the aims of the 15 Success Metrics set out in this Framework. The majority (and perhaps, all) of operational training needs will be met by the Occupiers under the terms of their bespoke ESTPs, and therefore will not need to be paid for by FAL or by the Local Authorities.
- 6.2 FAL recognises that the Brokerage System may need some additional investment, in particular to support hard to reach groups so that these groups can make the most of the opportunities provided at WMI.
- 6.3 The WMI Employment Fund will be provided by FAL to be used to support initiatives established by the Brokerage Coordinator or any other relevant initiative as decided by the vote of the Employment Fund Steering Group (see below).

The Employment Fund

- 6.4 The initial WMI Employment Fund is £1.7m.
- 6.5 Instalments of the fund will be triggered in respect of each warehouse occupied and each instalment will be proportionate to the size of the warehouse which is being commenced or occupied. Instalments will be triggered at commencement/occupation although FAL may pay the instalments up to six months prior to commencement/occupation where practical.
- 6.6 The payments of the Employment Fund will be structured as follows:

Trigger	Instalment
At commencement of construction of the warehouse	£0.46 per square metre GIA of the warehouse to be constructed ⁶
At occupation of the warehouse	£1.83 per square metre GIA of the warehouse being occupied ⁷

The Contingency Employment Fund

- 6.7 A Contingency Employment Fund of up to a **further £1.56m** will be triggered during the occupation phase if it is demonstrated that the relevant occupiers of a warehouse have not met certain targets and commitments.
- 6.8 FAL, SSDC and SCC envisage (and will make efforts to ensure that) the Brokerage System is functional and effective so that it is desirable for occupiers to use the service and it becomes part of business as usual.
- 6.9 This Fund has been established so that the Brokerage Coordinator(s) are able to implement employment, skills and training activities in the event that the development has not met its key targets and an occupier has been unwilling or unable to implement a strategy.

⁶ This is based on £1.7m divided between 743,200 sqm GIA of development, with 20% of each instalment triggered by the construction phase, and 80% of each instalment triggered by the occupational phase.

⁷ This is based on £1.7m divided between 743,200 sqm GIA of development, with 20% of each instalment triggered by the construction phase, and 80% of each instalment triggered by the occupational phase.

Triggering the Contingency Employment Fund

- 6.10 The monitoring point that triggers the test for the Contingency Employment Fund will be one year after the first occupation of a warehouse.
- 6.11 The Brokerage Coordinator(s) and the occupier will produce a Warehouse Monitoring Report. This must include the information presented in the Monitoring and Reporting section of this Framework.
- 6.12 The Contingency Employment Fund will be triggered only if the two key targets are not met AND the occupier of the latest warehouse to be occupied (which is the warehouse which is triggering this monitoring point) did not adhere to and implement an agreed bespoke ESTP.
- 6.13 The two key targets are:
- 6.13.1 The one-year post-occupancy employment monitoring demonstrates that:
- The development as a whole recruited at least 12% of operational employees from unemployment.
 - The development as a whole has recruited at least 60% of the workforce from within a 10 mile radius of the site (as measured using straight line distance to by postcode of employee's usual place of residence).
- 6.14 If either of these targets is not met, then the Warehouse Monitoring Report will be used to determine whether the occupier of the last warehouse to be occupied did not adhere to and implement an agreed bespoke ESTP. Implementation/adherence is defined in the Monitoring and Reporting section of this Framework.
- 6.15 If the ESTP is found to have been implemented and adhered to then it is assumed that the occupier undertook all reasonable endeavours to reach the targets but they could not be met for reasons beyond the control of FAL and the occupiers. This will not trigger the payment.
- 6.16 If either of these targets is not met and there is not sufficient evidence that the ESTP has been implemented and adhered to then the payment will be triggered. Disputes will be referred to the Dispute Resolution Mechanism set out in the Section 106 Agreement.
- 6.17 At the monitoring point, all units occupied to date will be assessed in combination against the target of 12%. For example, one year after the occupation of the third warehouse, the total employment of all of units 1, 2 and 3 will be assessed against the target. The monitoring point for each warehouse will be one year after the first occupancy of that warehouse and the data will be frozen at that point. Warehouses that have been occupied for more than one year will not continue to be produce Monitoring Reports for the purposes of the Contingency Employment Fund.
- 6.18 If triggered, instalments of the Contingency Employment Fund will be payable in respect of each warehouse occupied and each instalment will be proportionate to the size of the warehouse which is being occupied.

6.19 The payments of the Contingency Employment Fund will be structured as follows:

Trigger	Instalment
1 year after first occupation of each warehouse under the terms set out above	£2.10 per square metre GIA occupied in the warehouse in question ⁸

The Employment Fund Steering Group

6.20 The Employment Fund Steering Group (EFSG) will be a decision-making body who will be responsible for directing the spending of the Employment Fund and the Contingency Employment Fund. This model allows the fund to be used flexibly, responding to needs at the time of delivery rather being defined at this early stage. This model also allows input from occupiers to help to ensure that spending is relevant to their operations and does not duplicate their existing, costed programmes.

6.21 The EFSG will be established six months prior to commencement of the construction of the first warehouse at WMI, at the same time as the first instalment of the Employment Fund is paid. The EFSG will meet at least twice annually and will be responsible for maintaining oversight of fund delivery, providing agreement on programmes and investment decisions. EFSG representatives will be able to share their combined expertise, or knowledge of local opportunities and industry best practice to ensure that spending of funds is focussed on their respective objectives whilst maintaining flexibility to respond on new issues or opportunities that emerge.

6.22 The EFSG will be chaired by the Senior Brokerage Coordinator and will include the following representatives and voting rights as set out in table below.

REPRESENTATIVE	REMIT
Brokerage Coordinator	Chair & non-voting party
Four Ashes Ltd Representative*	1 Voting party
Occupier Representative	Non-Voting party
Staffordshire County Council*	1 voting party and 1 non-voting party
South Staffordshire District Council*	
City of Wolverhampton Council	Non-voting party

* Principal Parties

6.23 In the event of an even vote causing an impasse, or if a voting member of the EFSG is aggrieved by a decision of the EFSG, the matter shall be dealt with in accordance with the Dispute Review Mechanism set out in the Section 106 Agreement.

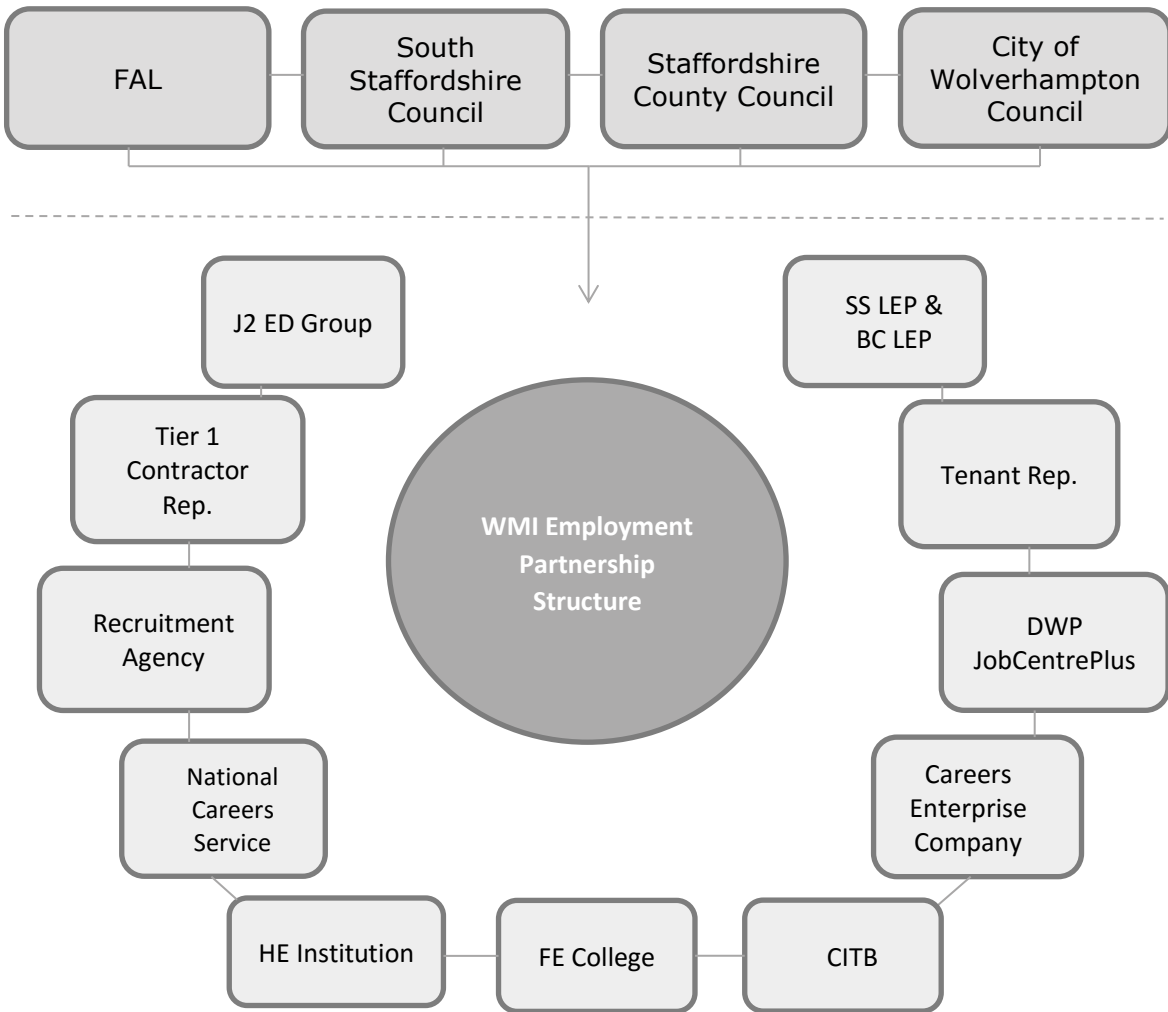
⁸ This is based on £1.56m divided between 743,200 sqm GIA of development.

- 6.24 Occupiers may put forward a representative who will sit on the steering group in a non-voting, advisory role. The occupier representative may change over time with phasing of new units. On the selection of an occupier representative, they will be subject to their own agreement and it is not required for a meeting to be quorate.
- 6.25 SSDC and SCC will have one vote between them and may choose an additional non-voting representative too. CWC is not a host authority and will hold an advisory role only and therefore will not assume voting rights on issues linked to spending of the Employment Fund.
- 6.26 Minutes of all EFSG meetings will be taken by the Brokerage Coordinator and issued within one week of the meeting to all members. This will include an action log, which will be maintained by the Brokerage Coordinator(s), to ensure agreed actions are recorded and taken forward accordingly as agreed by the relevant parties.
- 6.27 The Brokerage Coordinator(s) will make recommendations to the EFSG, based on available evidence and advice from the WMI Employment Partnership. The EFSG will apply the concept of majority voting amongst the three voting parties to reach decisions over agreement of the composition of investment programmes.
- 6.28 The EFSG will cease operations when all of the funds have been allocated or 18 months following the occupation of the last warehouse to be occupied whichever is the earlier, or earlier than either event if SSDC, SCC and FAL agree.

7 The WMI Employment Partnership

- 7.1 FAL has committed to establish the **WMI Employment Partnership** which includes local public, private and education sector representatives.
- 7.2 **The Employment Partnership** will be a two tier advisory group that will provide guidance and industry knowledge to inform decision making by contractors, occupiers, the Brokerage Coordinator and other stakeholders.
- 7.3 FAL would establish the Employment Partnership at least 6 months prior to construction commencement. A representative of FAL and a representative of SSDC/SCC would sit as members of the Partnership.
- 7.4 The high-level objectives of the **WMI Employment Partnership** would be to:
 - 7.4.1 Consider ways in which the misperception of the types of jobs available in logistics can be remedied.
 - 7.4.2 Establish key risks and opportunities within the three authority areas (with a focus on the area within 10 miles of WMI). This could include barriers to employment, opportunities for early intervention and pre-employability initiatives. Communicate these to the Brokerage System.
 - 7.4.3 Establish key target sectors for local skills development, if any are required.
 - 7.4.4 Promote effective communication between contractors and occupiers, public bodies and training providers.
 - 7.4.5 Ensure a joined-up approach to curriculum setting, training provision and unemployment support.
 - 7.4.6 Provide a framework for early intervention measures such as school engagement.
- 7.5 The members of the Employment Partnership may wish to set their own additional objectives to reflect their specialist expertise and the local context.
- 7.6 The structure of the partnership could be as shown in Figure 7.1. This is an example structure and is subject to agreement from the parties concerned and subject to suggestions from SCC and SSDC.
- 7.7 The Employment Partnership will cease its operations one year after the last warehouse is occupied unless SSDC, SCC and FAL all agree it should continue.

Figure 7.1: Draft WMI Employment Partnership



8 Monitoring and Reporting

- 8.1 The activities of the Tier One Contractors and the Occupiers will be monitored against the targets identified within the 15 Success Metrics.
- 8.2 The Tier One Contractors and Occupiers will be required to attend a pre-contract/occupation meeting at which the methods of monitoring and reporting required to identify compliance with the targets identified within the 15 Success Metrics will be agreed with SSDC and SCC. The reporting will either be monthly or quarterly (or another suitable timeframe) to be agreed at the pre-contract/occupation meeting. Regular monitoring is to be encouraged so that it becomes part of business as usual.
- 8.3 Monitoring data for all contractors and occupiers will include:
- 8.3.1 Number of people employed at the site.
 - 8.3.2 Number of people who moved to their job at WMI from unemployment or economic inactivity⁹. Employment status of recruits will be monitored by the Brokerage Coordinators.
 - 8.3.3 % of employees who reside within SSDC, SCC and CWC, by postcode (employees' postcode of usual place of residence will be used to determine the proportion of employees who live within 10 miles of WMI and the proportion within SSDC, SCC and CWC).
 - 8.3.4 Number of apprentices working on site.
 - 8.3.5 Skills profile of labour force.
 - 8.3.6 Trainee's progress on site.
 - 8.3.7 Number of weeks trainees engaged on site.
 - 8.3.8 Skills attained/Qualification achieved.
 - 8.3.9 Support needed by contractors/occupiers from Brokerage Coordinator(s).
 - 8.3.10 Any other relevant and reasonable information agreed in advance with the Brokerage Coordinator(s)

⁹ Employees will be considered to have come out of unemployment if they are 16 or over and met the ILO definition of unemployment or the ONS definition of economically inactive prior to their employment at WMI.

This meaning, that on the date that that the candidate submitted their job application for a job at WMI, they were a) without work for four weeks, i.e. were not in paid employment or self-employment; b) currently available for work, i.e. were available for paid employment or self-employment within two weeks of applying; and c) seeking work, i.e. had taken specific steps to seek paid employment or self-employment OR they were people not in employment, who have not been seeking or in work within the last 4 weeks.

- 8.3.11 After the first year of occupation, all occupiers will produce a Warehouse Monitoring Report, which will include all the information above plus the following. The Warehouse Monitoring Report will demonstrate that the occupier has:
1. Attended the Pre-Contract Meeting with the Brokerage Coordinator(s).
 2. Adhered to the agreed monitoring and reporting methodology.
 3. Interviewed all candidates submitted for consideration by a Council nominated agency who fully meet the job specification.
 4. Provided a list of vacancies (including skills requirements) to the Brokerage Coordinators as far in advance as possible ahead of the position being required. At least a month in advance of the start of the role, unless in an emergency
 5. Advertised all vacancies locally (as recommended by the Brokerage Coordinator) for at least 10 working days before wider recruitment is undertaken, unless in emergency.
 6. Provided evidence of targeted recruitment practices that encourage and support people living within 10 miles of WMI to gain employment on-site
 7. Provided evidence of apprenticeships and/or structured training programmes
 8. Provided evidence of local residents (living within 10 miles) gaining employment opportunities in higher skilled and/or higher paid roles on-site and/or being supported through training initiatives to do so.
- 8.3.12 Provision of all of this evidence constitutes implementation and adherence to the ESTP for the purposes of the Contingency Employment Fund.
- 8.3.13 In the event of a disagreement about whether or not an ESTP has been implemented, the case will be referred to the dispute resolution mechanism set out in the Section 106 Agreement.
- 8.3.14 FAL will encourage occupiers to show as part of their Warehouse Monitoring Report how the ESTP could become business as usual for recruitment and training to include:
- Career development strategy
 - Apprenticeship strategy
 - Local recruitment strategy
- 8.3.15 Ongoing monitoring will be expected to continue for five years after first occupation, although only the Warehouse Monitoring Report for the first year of occupation will be used to trigger the Contingency Fund.

Appendix 1: Labour Market Context Report



WEST MIDLANDS INTERCHANGE

LABOUR MARKET CONTEXT

WRITTEN IN SUPPORT OF THE EMPLOYMENT, SKILLS AND TRAINING PLAN,
TECHNICAL NOTE 14 & TECHNICAL NOTE 10

FEBRUARY 2018

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1 Introduction

1.1 West Midlands Interchange is a proposed Strategic Rail Freight Interchange (SRFI). An SRFI is a mixture of rail served and non-rail served warehousing. Warehousing on the scale of WMI (up to 743,200 sqm) will employ an estimated 8,550 people when it is fully operational.

1.2 Four Ashes Limited (FAL) is submitting a Development Control Order Application for these proposals. In support of this application FAL and its supporting consultants have undertaken detailed modelling of the employment, labour market and transport context of the development, to understand the number of jobs that will be created and where these employees might travel from to work here. These studies are required for two main reasons:

- The consenting authority¹ needs to be reassured that any potential transport impacts of employees travelling to the new development have been sufficiently assessed; and,
- In partnership with the South Staffordshire and Staffordshire Councils (and other regional stakeholders) FAL is seeking to maximise the number of local people who are able to access and benefit from these new jobs. The labour market context is required to inform the Employment, Skills and Training Plan that will form the basis of this strategy.

1.3 The relevant research and technical testing that FAL has done in support of the DCO Application can be found in the following documents:

- The Economic Benefits Statement
- Chapter 14 of the Environmental Statement: Socio-Economics
- Environmental Statement Technical Appendix 15.01: Transport Assessment
- Technical Appendix M to the Transport Assessment: Technical Note 10 & 14: Trip Distribution

1.4 This document is intended to provide a non-technical summary of these detailed assessments and reports. It provides a clear snapshot of:

- **Employment creation:** how many jobs will be created at WMI and at what skill level.
- **The travel to work area:** what is meant by the travel to work area and how it was established.
- **The labour market context:** what is the skill and employment profile of people who live within the local area and within the wider Travel to Work Area.
- **The transport assessment assumptions:** and how these relate to mitigation.

¹ The Secretary of State and the Planning Inspectorate with statutory consultation of local district and County Authorities – Staffordshire County and South Staffordshire District

2 Overview of TTWA modelling

- 2.1 The traffic model is based on the same labour market data and assumptions as the Socio-Economic Chapter and the Employment, Skills and Training Plan.
- 2.2 The process of establishing a Travel to Work Area and undertaking traffic modelling was as follows in the pull-out box below, running in this order.

2.3 This Note sets out the methodology and findings for each of these steps in turn.

2.4 It is important to note that the TTWA, and the transport assessment that is based on it, assume a “worst case scenario”, where there are no training initiatives and no public transport intervention. This means that the Environmental Statement fully reflects the potential for adverse effects from the development. It also means that local training initiatives are an *additional benefit* and are not inherently required as part of the DCO to mitigate transport effects.

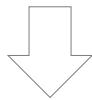
- Establishing how many jobs there could be at WMI



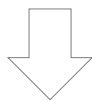
- Estimating how far might people travel for those jobs based on travel times and existing travel patterns



- Establishing how many people there are within each district in the TTWA who could work here (establishing the size of the labour force) based on the size of the working age population.



- Within that outer limit, projecting how likely people are to travel to work here from each district (known as “the distance decay function”)



- Testing this projection against the total labour force in each area to ensure the number of workers commuting to WMI is reasonable.

Why? *The scale of employment opportunities will influence the number of employee journeys each day and is a key element of the economic benefits case*

How? *Using up to date evidence to project density of employment per square metre in modern warehousing*

Why? *To establish a catchment area for potential traffic impacts and for skills and employment initiatives*

How? *Using Census data on commuting patterns (supplemented by consultation with local stakeholders)*

Why? *To understand the potential effects of this scale of job creation in the context of the existing labour force, identifying potential labour supply constraints.*

How? *Using Census and Annual Population Survey data*

Why? *To understand the likely place of residence of the future labour force to input into skills and transport plans.*

How? *Using a Gravity Model based on the existing working age population and a distance decay function*

Why? *To sense check the projected commuting patterns against labour supply and identify any potential constraints.*

How? *Testing the results of the Gravity Model against Census and Annual Population Survey baseline data and evidence from DIRFT.*

3 Calculating the number of jobs

Methodology

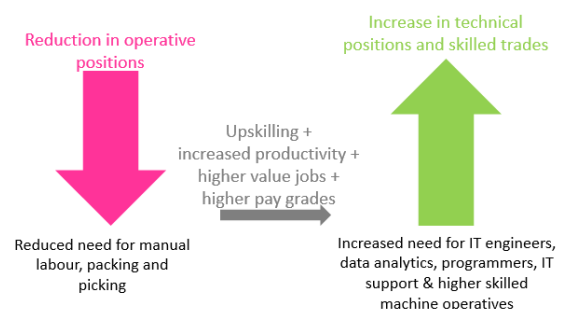
- 3.1 Quod initially set out a range of potential job estimates based on a range of assumptions. This reflected the fact that different types of warehousing would generate different employment densities; floorspace could be used differently (office use increases density, storage reduces it) and with different degrees of efficiency (larger floorplates tend to be more efficient). A range of data sources were used, including:
- The Homes and Communities Agency’s Employment Density Guide 3rd edition, November 2015;
 - Research by Prologis², a leading provider and manager of warehousing in the UK; and,
 - Quod’s own research into patterns and types of employment in modern warehouse and SRFI facilities.
- 3.2 Initial results indicated that the job density could be between 70sqm per job and 90sqm per job.
- 3.3 These results were then sense checked against other publicly available sources such as relevant planning applications and industry studies. This testing produced **a likely job density of 87 sqm per job**. This is broadly in line with the Tilbury Planning Application which has an employment density assumption of up to 84 sqm per job.
- 3.4 The employment number is an estimate, but it is a reasonable basis for employment and transport strategies based on the available evidence. A flexible approach is required to deal with unavoidable uncertainty.

Acknowledging uncertainty

- 3.5 WMI will be built over 15 years. Occupiers will take up warehousing space incrementally over this time. And occupiers could change over time, over the length of the development’s life.
- 3.6 WMI could have a range of possible tenants who would use the space in different ways. The employment created on-site would be dependent on many factors such as whether goods handled are slow or fast moving or whether there is assembly and processing on-site or not.
- 3.7 Even if the tenants were known, there is still potential for technological and other changes to mean that employment numbers fluctuate in the future.
- 3.8 In reality, it is likely that there will be a mixture of types of warehousing at WMI, with some higher density employment uses and some lower, averaging each other out across the site.

The type of jobs at WMI & the future of the Logistics sector

- 3.9 The type of jobs employed in logistics is getting broader and more skilled. The British Property Federation refers to the “low skills myth” in reference to the negative perceptions of warehouse jobs. Technological advances mean that IT, robotics, engineering and data analysis are a key part of warehouse management now.
- 3.10 Quod estimates that at least 20% of the jobs will be managers, engineering and technical professionals and skilled trades. A further 20% will be skilled and semi-skilled administrative and sales jobs.



² Prologis, 2011, Technical Notes from Prologis UK, Do Distribution Warehouses Deliver Jobs?; Prologis, 2015, Technical Insights from Prologis, Distribution Warehouses Deliver More Jobs

3.11 Contrary to perceptions, the mechanisation and modernisation of the logistics sector is supporting growth, not decline, in employment in the sector. Research published by the British Property Federation demonstrates that modernisation is leading to higher employment densities in some premises³. Employment in warehousing increased by 40% between 2009 and 2013 and is expected to exceed average growth in other sectors up to 2035⁴. Productivity in the sector is expected to increase by 83% up to 2035⁵.

3.12 Over half of the jobs at the Rail Freight Interchange at DP World, London Gateway (terminal jobs, not including warehousing) are in engineering, IT and administration⁶. They offer on-site apprenticeships in mechanical and electrical engineering, finance, HR and PR⁷.

3.13 These will be high quality jobs with opportunities for career development and training – and salaries well above the regional average for skilled and experienced roles.

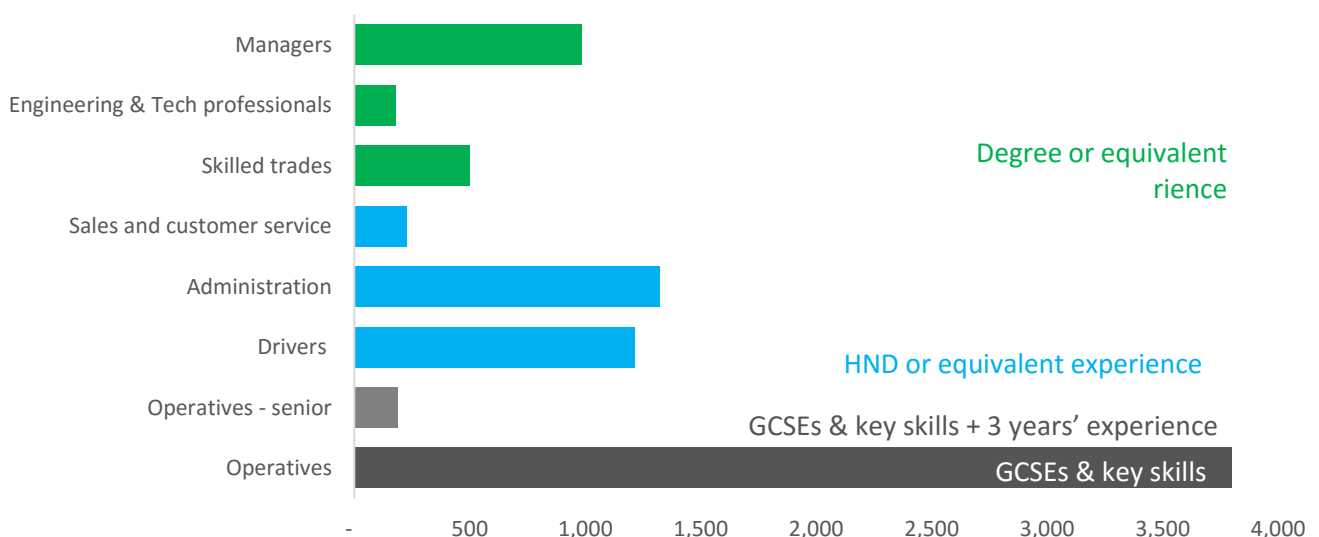
The projected skill profile of WMI jobs

3.14 It is possible to estimate the skill and occupation profile of new SRFI jobs based on key sources:

- Data from the Annual Population Survey which measures industry and occupation characteristics (SIC by SOC);
- survey data collect by Prologis⁸; and
- Quod’s research into job listings and recruitment patterns.

3.15 The graph below shows an estimated skill/occupation profile for WMI. As with the job projections, these are estimates and are uncertain. As stated above, any strategy related to skill development should have a flexible approach to deal with the unavoidable degree of uncertainty in these types of projections.

Figure 1: Projected employment at the Proposed Development by occupation and skill level.



³ British Property Federation, 2015, Delivering the Goods p.15

⁴ British Property Federation, 2015, Delivering the Goods p.4

⁵ British Property Federation, 2015, Delivering the Goods p.5

⁶ Evidence from Site Visit to DP World, Jun 2017

⁷ British Property Federation, 2015, Delivering the Goods p.11

⁸ Prologis, 2011, Technical Notes from Prologis UK, Do Distribution Warehouses Deliver Jobs?; Prologis, 2015, Technical Insights from Prologis, Distribution Warehouses Deliver More Jobs

⁸ ONS, 2017. Gross Value Added. [online] Available

4 The Travel to Work Area

Estimating how far people might travel for jobs at WMI

- 4.1 A **Travel to Work Area** (TTWA) for a development is a zone from within which the vast majority of employees is expected to travel.
- 4.2 Whilst a few employees may travel from beyond this area, it is expected that this TTWA is the outer limit for almost all employees to commute from. In the Transport Assessment, this outer limit is known as a “cordon”.
- 4.3 When assessing a new development, a projected TTWA can be estimated using travel distance and/or travel time. Assumptions are made about the distance or time employees could be expected to travel to work.
- 4.4 WSP established a cordon for the TTWA based on existing travel patterns, reasonable travel to work times and in consultation with Highways England (and their consultants, JMP) and local authorities (South Staffordshire County and Wolverhampton City Councils). This is set out in **Technical Note 10**.
- 4.5 Other factors may influence the extent of the cordon for a new development. These are usually based on locally specific knowledge or circumstances. Whilst Census evidence did not indicate that there would be any employees coming to WMI from Newcastle-under-Lyme, Stoke-on-Trent, Staffordshire Moorlands and East Staffordshire, local experience and consultation indicated that it was quite likely that residents would be drawn from here. So the cordon was amended in response.
- 4.6 Similarly, existing evidence showed the TTWA could include the whole of Birmingham, however, given the weight of existing opportunities in Birmingham, it was considered unlikely that significant number of people would commute out of south or central Birmingham to work at WMI. This was a view

shared by Highways England. So the TTWA was limited to wards in the north of the city.

- 4.7 Technical Note 10 states that:

“The resultant proportions showed a large percentage of employee trips coming from Birmingham. This was regarded as unrealistic considering the majority of those currently living in Birmingham work in Birmingham or in very close proximity [...]”

“It is acknowledged though that due to WMI being such a large employer there is likely to be some attraction to the site from Birmingham therefore some of the more accessible areas in relation to the site within the north of the city have been included in the cordon.”

- 4.8 This methodology results in a TTWA that includes the following areas (a map is shown on p.9).

- Aston, Birmingham
- Erdington, Birmingham
- Handsworth Wood, Birmingham
- Hodge Hill, Birmingham
- Kingstanding, Birmingham
- Lozells and East Handsworth, Birmingham
- Oscott, Birmingham
- Perry Barr, Birmingham
- Stockland Green, Birmingham
- Sutton Four Oaks, Birmingham
- Sutton New Hall, Birmingham
- Sutton Trinity, Birmingham
- Sutton Vesey, Birmingham
- Tyburn, Birmingham
- Cannock Chase
- Dudley
- Staffordshire
- Lichfield
- Newcastle-Under-Lyme
- Sandwell
- Shropshire
- South Staffordshire
- Stafford
- Staffordshire Moorlands
- Stoke-on-Trent
- Telford and Wrekin
- Walsall
- Wolverhampton

- 4.9 People may travel from beyond this area, but there will be relatively few.
- 4.10 The TTWA for WMI must not be confused with the Office for National (ONS) Statistics Census Travel to Work Areas. Census TTWA's are defined as "approximate self-contained local labour market areas, where the majority of an area's resident workforce work, and where the majority of the workforce live⁹." They are very useful to understand the general pattern of where people who live in a certain area tend to work, based on existing locations of housing, jobs and transport.
- 4.11 WMI is currently located at the border of two ONS TTWAs, "Stafford" and "Wolverhampton and Walsall". So the existing boundaries of either one of the TTWAs do not seem appropriate for use for this site. Using either would potentially exclude a large catchment of likely workers.
- 4.12 ONS TTWAs are also not particularly useful at projecting or estimating the future trends at a new employment location, especially a very large one such as WMI, which is large enough to affect existing trends, particularly through providing a new local source of employment for South Staffordshire residents.
- 4.13 Therefore, a bespoke TTWA and a Gravity Model (see below) is a much more useful and accurate way of projecting future travel plans than relying solely on Census data.

Projecting how likely people are to travel from each district

- 4.14 Within the cordon – the TTWA – the trip patterns are governed by a power function: areas close by to WMI with lots of people will provide more workers than areas further away and/with relatively few residents.
- 4.15 The distribution of workers within the TTWA has been established using a Gravity Model that

applies a distance decay factor (see pull-out box)

- 4.16 *Technical Appendix M to the Transport Assessment: Technical Note 14: Trip Distribution* sets out the detail of how the Gravity Model has been established. The methodology was established by WSP (Parsons Brinckerhoff) in consultation with Highways England's Transport Consultant, JMP.

Distance Decay Factors

Spatial modelling uses different ways to measure and account for distance.

Typically a spatial model will make the assumption that the strength of relationships between locations, or the effect one location has upon another, diminishes the further away they are from each other.

As the relationship weakens when you get further away, this is known as *distance decay*.

The part of the model that dictates how quickly the relationship weakens is the *distance decay factor* or a *deterrence factor*.

The most widely used distance decay models are those in which distance is introduced as an inverse function to a power, typically to the power of 1 or 2.

In these models, distance can be represented either in kilometres or by journey time.

- 4.17 The Gravity Model projects the relationship between where working age people live and the site. Through consultation with JMP, WSP established that the most reasonable Gravity Model to use when assessing WMI is a **Time to the Power of 2 Gravity Model**.
- 4.18 This means that potential workers are deterred by time, as discussed above; the longer it takes to travel to a workplace, the less likely they are

⁹ ONS, 2018, Commuting to work, Changes to Travel to Work Areas: 2001 to 2011 online: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork>

</employmentandemployeetypes/articles/commutingtoworkchangesotraveltoworkareas/2001to2011> accessed 05/01/2018

to go. In the case of WMI, the time deterrence factor has been raised to the power of 2. This reflects the fact that workers living further away from WMI are not only deterred by the longer travel time, but their attraction to WMI is weakened by the availability of other job opportunities elsewhere.

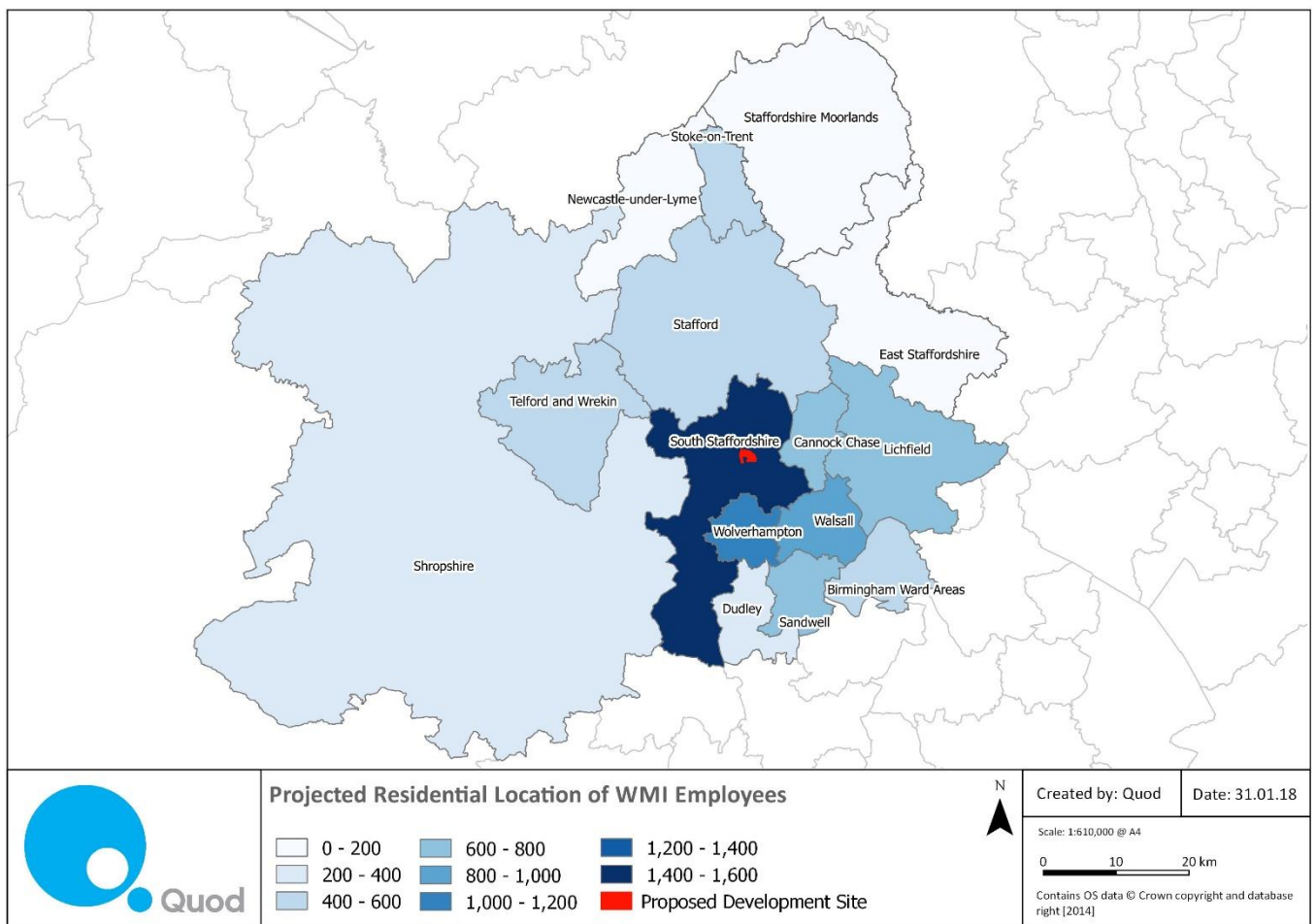
Based on the above results, using journey time [to the power of 1] as a deterrence factor is not considered to give a realistic distribution. Therefore, taking the analysis a step further we have also considered journey time². Longer journey times are likely to act as a greater deterrence and this should be reflected in the analysis.

4.19 Technical Note 14 states that:

Given the labour force profile of these districts and the accessibility of the Site from residents in neighbouring districts – we consider the time deterrence model to underestimate the number of employees who would travel from South Staffordshire and its immediate neighbours. This view has also been expressed by Wolverhampton City Council [...]

4.20 As set out above, this methodology has been agreed with JMP after consultation and scenario testing¹⁰.

Figure 2: Projected Residential Location of WMI Employees



¹⁰ The Spatial Planning Framework Commission Technical Note entitled "Response to Trip Distribution Methodology" and dated

26/10/16 sets out this reasoning and JMP/AECOM/Highways England agreement

5 Establishing the size of the labour force

- 5.1 A full Socio-Economic Baseline is set out in Chapter 14 of the ES. This section extracts and summarises the key labour market characteristics within each district of the TTWA.
- 5.2 The Gravity Model takes the pool of available labour to be the working age population. This is a reasonable basis for the model because:
- The skills and occupations that will be required at WMI will be broad, including many entry level positions. There will be many opportunities to use transferable skills (IT, driving, administration) and for learning on the job, so it is not essential that the pool of available labour has specific skills or experience; and,
 - The skills and occupation base does not vary significantly between districts within the TTWA. If the areas within the TTWA had significantly different skills or occupational profiles a Gravity Model based on working age population may be skewed. It could overestimate the likely employees from one area and underestimate it from others. However, as the skills base is broadly similar across the districts, the working age population is reasonable basis of labour market.
- 5.3 The EIA demonstrates that there is a large pool of available labour supply at appropriate skill and occupation levels to support the scale of growth at WMI, including residents who are currently unemployed and those who are economically inactive but want a job.

Table 1: Labour Market Overview

Origin	Total residents	Working Age Residents	Economically Active Residents	Unemployed residents (Annual Population Survey 2016-17)	Economically inactive residents who want a job	Total residents who want a job but don't have one
South Staffordshire	108,100	80,700	56,400	2,200	1,600	3,800
Wolverhampton	249,500	180,000	120,400	8,900	7,600	16,500
Walsall	269,300	192,000	126,800	6,600	7,800	14,400
Cannock Chase	97,500	72,300	51,300	4,000	2,000	6,000
Sandwell	308,100	219,500	146,700	12,400	8,400	20,800
Lichfield	100,700	74,800	51,900	N/A	3,000	N/A
Birmingham wards	360,300	253,100	168,100	14,800*	10,800*	25,536
Telford and Wrekin	166,600	122,300	84,900	3,500	6,600	10,100
Stoke-on-Trent	249,000	182,800	119,700	6,400	9,800	16,200
Stafford	130,900	97,300	68,300	4,400	1,900	6,300
Shropshire	306,100	223,900	159,000	6,300	7,400	13,700
Dudley	312,900	226,700	155,500	7,600	6,900	14,500
Newcastle-under-Lyme	123,900	92,300	61,600	2,800	3,600	6,400
East Staffordshire	113,600	83,100	58,600	1,700	3,100	4,800
Staffordshire Moorlands	97,100	72,100	50,000	1,500	3,000	4,500
TOTAL	2,993,500	2,172,800	1,479,100	83,100	83,455	166,500
Percentage		73%	68% (proportion of working age)	5.8% (proportion of economically active)	19% (proportion of economically inactive)	

*Annual Population Survey is only available at District level. Unemployment in the Birmingham wards is a modelled estimate based on the total unemployment rate in Birmingham and historic proportions of Birmingham's unemployment in the selected wards.

Table 2: Existing Skills Base: Industry (Census 2011)

Origin	Primary & Extractive Industries & Utilities (SIC A,B,D,E)	Manufacturing (SIC D)	Construction (SIC F)	Logistics (SIC H)	Wholesale and Retail (SIC H)	Accommodation & food services (SIC I)	Social services & public administration (SIC O, P, Q)	Professional and business services (SIC J,K,L,M,N +other)
South Staffordshire	1,450	6,450	5,250	2,050	9,000	2,300	15,350	11,450
Wolverhampton	1,850	14,000	7,600	6,300	18,150	5,350	30,800	20,200
Walsall	2,000	16,300	9,800	6,700	21,600	5,250	30,100	20,500
Cannock Chase	1,250	6,800	5,500	2,750	8,950	2,250	12,050	7,950
Sandwell	2,800	18,750	9,750	8,500	23,350	6,500	34,000	25,000
Lichfield	1,300	5,700	4,300	2,300	8,350	2,350	13,450	11,250
Birmingham wards	1,900	15,100	9,700	8,700	24,500	8,300	44,200	34,900
Telford and Wrekin	2,050	13,250	4,950	3,100	13,100	3,750	22,250	15,900
Stoke-on-Trent	2,050	14,700	8,600	7,050	21,250	5,850	28,300	20,250
Stafford	2,250	6,300	4,500	2,850	10,350	3,150	21,950	13,100
Shropshire	8,000	15,950	12,550	5,850	24,250	8,300	46,050	29,800
Dudley	3,000	20,000	13,000	6,300	25,450	5,950	40,700	27,650
Newcastle-under-Lyme	1,150	7,150	4,650	2,800	10,850	2,750	16,700	11,250
East Staffordshire	1,650	9,050	4,300	3,500	9,550	2,950	14,000	10,000
Staffordshire Moorlands	1,900	6,950	4,150	2,100	7,150	2,200	12,850	10,250
TOTAL	34,600	176,450	108,650	70,900	235,900	67,200	382,750	269,450
Percentage	3%	13%	8%	5%	18%	5%	28%	20%

Table 3: Existing Skills Base: Industry (Census 2011) Percentages

Origin	Primary & Extractive Industries & Utilities (SIC A,B,D,E)	Manufacturing (SIC D)	Construction (SIC F)	Logistics (SIC H)	Wholesale and Retail (SIC H)	Accommodation & food services (SIC I)	Social services & public administration (SIC O, P, Q)	Professional and business services (SIC J,K,L,M,N +other)
South Staffordshire	3%	12%	10%	4%	17%	4%	29%	21%
Wolverhampton	2%	13%	7%	6%	17%	5%	30%	19%
Walsall	2%	15%	9%	6%	19%	5%	27%	18%
Cannock Chase	3%	14%	12%	6%	19%	5%	25%	17%
Sandwell	2%	15%	8%	7%	18%	5%	26%	19%
Lichfield	3%	12%	9%	5%	17%	5%	27%	23%
Birmingham wards	1%	10%	7%	6%	17%	6%	30%	24%
Telford and Wrekin	3%	17%	6%	4%	17%	5%	28%	20%
Stoke-on-Trent	2%	14%	8%	7%	20%	5%	26%	19%
Stafford	3%	10%	7%	4%	16%	5%	34%	20%
Shropshire	5%	11%	8%	4%	16%	6%	31%	20%
Dudley	2%	14%	9%	4%	18%	4%	29%	19%
Newcastle-under-Lyme	2%	12%	8%	5%	19%	5%	29%	20%
East Staffordshire	3%	16%	8%	6%	17%	5%	25%	18%
Staffordshire Moorlands	4%	15%	9%	4%	15%	5%	27%	22%
TOTAL	3%	13%	8%	5%	18%	5%	28%	20%

Table 4: Existing Skills Base: Occupation (Census 2011)

Origin	Managers, directors and senior officials	Professional and associate professional occupations	Administrative occupations and skilled trades	Service & sales occupations	Process, plant, operative and elementary occupations
South Staffordshire	6,950	15,500	14,000	8,450	8,450
Wolverhampton	8,550	24,550	24,150	20,300	26,750
Walsall	10,150	25,250	28,450	21,600	26,800
Cannock Chase	4,450	10,350	12,650	8,900	11,050
Sandwell	9,500	26,500	31,650	25,650	35,300
Lichfield	6,850	15,200	11,500	7,300	8,200
Birmingham wards	13,450	40,550	33,600	27,700	32,000
Telford and Wrekin	7,450	19,750	18,350	14,100	18,700
Stoke-on-Trent	8,050	21,000	26,250	23,750	29,100
Stafford	7,700	20,800	14,350	10,500	11,150
Shropshire	17,700	40,900	38,000	26,000	28,150
Dudley	13,500	35,200	37,850	26,850	28,650
Newcastle-under-Lyme	5,400	15,100	13,500	10,950	12,400
East Staffordshire	5,700	13,600	12,400	8,950	14,300
Staffordshire Moorlands	5,250	12,200	12,350	8,200	9,550
TOTAL	130,650	336,450	329,050	249,200	300,550
Percentage	10%	25%	24%	19%	22%

Table 5: Existing Skills Base: Occupation (Census 2011): Percentages

Origin	Managers, directors and senior officials	Professional and associate professional occupations	Administrative occupations and skilled trades	Service & sales occupations	Process, plant, operative and elementary occupations
South Staffordshire	13%	29%	26%	16%	16%
Wolverhampton	8%	24%	23%	19%	26%
Walsall	9%	22%	25%	19%	24%
Cannock Chase	9%	22%	27%	19%	23%
Sandwell	7%	21%	25%	20%	27%
Lichfield	14%	31%	23%	15%	17%
Birmingham wards	9%	28%	23%	19%	22%
Telford and Wrekin	10%	25%	23%	18%	24%
Stoke-on-Trent	7%	19%	24%	22%	27%
Stafford	12%	32%	22%	16%	17%
Shropshire	12%	27%	25%	17%	19%
Dudley	10%	25%	27%	19%	20%
Newcastle-under-Lyme	9%	26%	24%	19%	22%
East Staffordshire	10%	25%	23%	16%	26%
Staffordshire Moorlands	11%	26%	26%	17%	20%
TOTAL	10%	25%	24%	19%	22%

Table 6: Existing Skills Base Qualifications

Origin	No Formal qualifications	Level 1 qualifications	Level 2 qualifications	Apprenticeship	Level 3 qualifications	Level 4 qualifications and above	Other qualifications
South Staffordshire	21,700	12,600	14,950	3,650	11,350	22,700	3,550
Wolverhampton	62,450	28,200	29,800	5,500	21,200	39,000	13,900
Walsall	71,850	31,100	32,600	6,350	23,000	36,000	12,200
Cannock Chase	22,300	12,900	14,050	2,850	10,000	13,600	3,350
Sandwell	85,050	34,700	35,550	6,450	25,250	37,150	17,700
Lichfield	18,600	11,400	13,300	2,950	9,800	23,600	3,400
Birmingham wards	78,500	38,450	40,850	6,950	34,000	61,950	18,150
Telford and Wrekin	32,600	20,050	23,750	4,400	17,200	27,700	6,700
Stoke-on-Trent	67,750	28,850	31,900	7,050	23,950	31,050	10,100
Stafford	22,150	13,800	17,200	3,750	14,050	32,900	4,800
Shropshire	56,950	33,150	42,600	9,300	30,750	69,550	10,700
Dudley	76,000	36,300	42,350	8,900	30,050	48,600	11,250
Newcastle-under-Lyme	27,550	13,100	16,100	4,000	14,850	23,100	4,100
East Staffordshire	22,650	13,000	14,800	3,850	10,750	21,450	5,250
Staffordshire Moorlands	21,550	10,400	13,000	3,350	9,950	19,250	3,550
TOTAL	687,700	338,000	382,750	79,250	286,200	507,650	128,700

Table 7: Existing Skills Base Qualifications: Percentages

Origin	No Formal qualifications	Level 1 qualifications	Level 2 qualifications	Apprenticeship	Level 3 qualifications	Level 4 qualifications and above	Other qualifications
South Staffordshire	24%	14%	17%	4%	13%	25%	4%
Wolverhampton	31%	14%	15%	3%	11%	19%	7%
Walsall	34%	15%	15%	3%	11%	17%	6%
Cannock Chase	28%	16%	18%	4%	13%	17%	4%
Sandwell	35%	14%	15%	3%	10%	15%	7%
Lichfield	22%	14%	16%	4%	12%	28%	4%
Birmingham wards	28%	14%	15%	2%	12%	22%	7%
Telford and Wrekin	25%	15%	18%	3%	13%	21%	5%
Stoke-on-Trent	34%	14%	16%	4%	12%	15%	5%
Stafford	20%	13%	16%	3%	13%	30%	4%
Shropshire	23%	13%	17%	4%	12%	27%	4%
Dudley	30%	14%	17%	4%	12%	19%	4%
Newcastle-under-Lyme	27%	13%	16%	4%	14%	22%	4%
East Staffordshire	25%	14%	16%	4%	12%	23%	6%
Staffordshire Moorlands	27%	13%	16%	4%	12%	24%	4%
TOTAL	29%	14%	16%	3%	12%	21%	5%

6 Testing the TTWA Outcome

6.1 To “sense check” a TTWA we have tested the number of workers coming from each area against the baseline i.e. is it proportionate to the number of working age residents? You can also test it against travel patterns taken from the Census, as described above. Quod and WSP undertook this process of sense checking as described in **Technical Note 14**.

Testing against growth plans

6.2 There is local, regional and national policy support for employment growth. WMI is part of planned growth for the region: the LEP has a target of 50,000 jobs up to 2024. WMI is the equivalent of 17% of this LEP-wide target.

6.3 Therefore the principle of employment growth on this scale is supported locally and has been considered as part of the preparation of the LEP *Strategic Economic Plan*.

6.4 The job density in South Staffordshire is 0.51 jobs per working age person, amongst the lowest in the country and compared to an average of 0.72 across England¹¹. Because of lower job densities South Staffordshire is currently a net “exporter” of workers. That means that more workers leave the district each day than travel to it: c. 16,000 more employees leave South Staffordshire for work than travel to the district. Locally, South Staffordshire supports job growth “to provide jobs locally and reduce levels of out commuting” which is recognised as a threat to sustainability in the district.¹²

6.5 The average job density across the Stoke and Staffordshire LEP area is 0.74 jobs per working age person. Whilst this is slightly above the England average it is lower than prosperous hubs in the UK such as the Cambridge and Peterborough Combined Authority where job density is around 0.83 jobs per working age resident. The additional 50,000 jobs within the LEP area could bring the job density up to 0.81, comparing favourably with other economic hubs and with the UK average.

Testing against existing population

6.6 The results of the Gravity Model are set out in Table 8. It shows the number of people who could be expected to come from each area. The table sets this in the context of the working age population and the economic active population of that area. Table 9 does the same against the number of unemployed people and number of economically inactive people who want a job.

6.7 As would be expected, the largest effects are within South Staffordshire. Nearly one in five WMI employees could be South Staffordshire residents. This amounts to 1.93% of the local working age population. Given the scale of the opportunity and the current pattern of out commuting in the district due to lack of local opportunities, this shift does not seem unrealistic, nor would it be expected to have disruptive or unsustainable effects on the labour market.

6.8 As the table demonstrates, the proportion of workers drawn from all other areas is also plausible.

¹¹ Business Register and Employment Survey 2016 and Mid-Year Population estimates 16-64 2016

¹² South Staffordshire District Council, 2012. Core Strategy Development Plan Document p.22

Table 8: TTWA baseline characteristics and potential WMI workers

Origin	Working Age Residents	Economically Active Residents	Average Peak Hour Distribution Based on Time ²	Estimated number of employees drawn to WMI	WMI jobs as a % of Working Age Employees	WMI jobs as a % of Economically Active Residents
South Staffordshire	253,100	80,700	18.20%	1,556	1.93%	2.8%
Wolverhampton	72,274	180,000	12.08%	1,033	0.57%	0.9%
Walsall	226,726	192,000	11.38%	973	0.51%	0.8%
Cannock Chase	74,757	72,300	8.81%	753	1.04%	1.5%
Sandwell	219,508	219,500	8.49%	726	0.33%	0.5%
Lichfield	223,892	74,800	8.29%	709	0.95%	1.4%
Birmingham wards	80,718	253,100	6.61%	565	0.22%	0.3%
Telford and Wrekin	97,297	122,300	6.10%	522	0.43%	0.6%
Stoke-on-Trent	122,279	182,800	5.17%	442	0.24%	0.4%
Stafford	191,974	97,300	5.13%	439	0.45%	0.6%
Shropshire	179,983	223,900	3.66%	313	0.14%	0.2%
Dudley	182,808	226,700	2.60%	222	0.10%	0.1%
Newcastle-under-Lyme	72,085	92,300	1.70%	145	0.16%	0.2%
East Staffordshire	92,335	83,100	1.26%	108	0.13%	0.2%
Staffordshire Moorlands	83,059	72,100	0.53%	45	0.06%	0.1%
Total	2,172,795	2,172,800	100.00%	8550	0.39%	0.6%

Table 9: TTWA unemployment and potential WMI workers

Origin	Unemployed Residents	WMI jobs as a % of unemployed residents	Residents who are economically inactive but want to work	WMI jobs as a % of economically inactive but want to work	Total Residents who want to work but don't have a job	WMI jobs as a % of total residents who want to work but don't have a job
South Staffordshire	2,200	71%	1,600	97%	3,800	41%
Wolverhampton	8,900	12%	7,600	14%	16,500	6%
Walsall	6,600	15%	7,800	12%	14,400	7%
Cannock Chase	4,000	19%	2,000	38%	6,000	13%
Sandwell	12,400	6%	8,400	9%	20,800	3%
Lichfield	N/A	N/A	3,000	24%	N/A	N/A
Birmingham wards	14,800	4%	10,755	5%	25,536	2%
Telford and Wrekin	3,500	15%	6,600	8%	10,100	5%
Stoke-on-Trent	6,400	7%	9,800	5%	16,200	3%
Stafford	4,400	10%	1,900	23%	6,300	7%
Shropshire	6,300	5%	7,400	4%	13,700	2%
Dudley	7,600	3%	6,900	3%	14,500	2%
Newcastle-under-Lyme	2,800	5%	3,600	4%	6,400	2%
East Staffordshire	1,700	6%	3,100	3%	4,800	2%
Staffordshire Moorlands	1,500	3%	3,000	2%	4,500	1%
Total	83,081	10%	83,455	10%	166,500	5%

6.9 When the new jobs are considered against the number of unemployed residents, the proportions are, logically, much higher. However, even then, the number of WMI jobs taken by South Staffordshire residents would be the equivalent of around 71% of unemployed residents. This unemployment number only considers those who are actively looking for work. There are an estimated 83,000 residents of the TTWA who are economically inactive but who want a job. They would come back into the labour market if suitable opportunities became available.

6.10 In reality, not all the jobs will go to residents who are currently unemployed. In particular WMI should help to attract residents who currently commute out of the district so that they can work closer to home and those who are economically inactive to come back into the labour market (of which there are over 83,000).

6.11 In total, there are 166,500 people within the TTWA who want to work but don't have a job. New jobs at WMI equate to 5% of this labour supply.

6.12 In partnership with district and county stakeholders, FAL is putting in place a strategy to support unemployed people back into work at WMI.

6.13 Some jobs will not be vacancies – some occupiers will bring a proportion of staff with them. Over time, as these jobs turn over, they will be more likely to be taken up by local residents, including local residents who are promoted within the firm.

Testing against existing travel patterns

6.14 The relative weight of economic opportunities in Birmingham means that employees are less likely to travel longer distances for work. In simple terms, there are numerous jobs available within and around Birmingham and

therefore it is less likely that Birmingham residents would need to travel to find employment. Across England, there are 0.76 jobs per head of working age population¹³. The job density in the West Midlands is 0.72 jobs per head. In South Staffordshire is amongst the lowest in the country at 0.51 jobs per working age person.

- 6.15 As a result of lower job densities, Wolverhampton and South Staffordshire are currently net “exporters” of workers. That means that more workers leave these districts each day than travel to them: c. 16,000 more employees leave South Staffordshire for work than travel to the district. This demonstrates that there is an existing pool of local labour for whom WMI could provide a job closer to home and who are more likely to take up jobs at WMI than a Birmingham resident would be, for example.
- 6.16 Employees who work in the logistics sector in Wolverhampton, South Staffordshire and Cannock Chase are much more likely to travel further to work than residents in Birmingham. Only 7% of Birmingham logistics employees travel more than 20km to work. This compares to 11% in Wolverhampton and 17% and 18% in Cannock Chase and South Staffordshire respectively. Only 5% travel 30km or more – which is the distance from Birmingham’s northern suburbs to WMI.
- 6.17 The implications of this evidence for the cordon and Gravity Model results are:
- It is reasonable to exclude most of Birmingham from the cordon.
 - Due to the low job density in South Staffordshire and the high level of out-commuting from the district, it is reasonable to assume that a substantial number of new jobs created in the district could attract local residents to shift to a more local job opportunity. This provides weight to the

Gravity Model projection that 18% of workers could come from within the District.

- 6.18 Analysis of the distribution of employees in MSOA Daventry 003, which contains DIRFT, a similar facility upon which the WMI trip generation is based, indicates that over 49% of employees come from within 10 miles of the site. Applying this to the WMI site location encompasses South Staffordshire, Cannock Chase, Wolverhampton and the western part of Walsall within this catchment (and would not include Birmingham). The Gravity Model projects that 50.5% of WMI employees would come from within this area, in line with evidence from DIRFT.
- 6.19 Testing against existing travel plans and evidence from other similar sites demonstrates that the outcomes of the Gravity Model are plausible and sustainable.

Assessing travel patterns: relationship between the TTWA and the Transport Assessment

- 6.20 For the purposes of the Transport Assessment, trip distribution for employees is based on the TTWA, established as set out above. These assumptions are the foundation of the Transport Assessment (non-employee traffic is of course also considered and assessed, although that is beyond the scope of this report.)
- 6.21 Section 6.3 of the *Transport Assessment* sets out the assumptions used. The methodology adopted to forecast both HGV and non-HGV trip generation and distribution has been agreed with Highways England and Staffordshire County Council.
- 6.22 The Transport Assessment assesses a scenario where only essential very local transport works take place (e.g. new link road and right turn ban for example). The Assessment does not assume any new public transport routes or modal shift takes place, as its base case. It also assumes a “do nothing” scenario in terms of local

¹³ Business Register and Employment Survey 2016 and Mid-Year Population estimates 16-64 2016

employment and training initiatives. Therefore, the Transport Assessment and the TTWA on which it is based, constitute a “worst case scenario” in terms of the distance people will travel to work at WMI. This “worst case” approach is in-line with Highways England methodology. This approach helps to ensure that the planning process and the Environmental Impact Assessment take full account of the likely worst-case scenario in terms of transport.

6.23 This does not mean that FAL and the stakeholders are not proposing strategies to reduce car dependence and trips, and to promote local employment. These are key ambitions for the Applicant (and are set out in more detail below). It means that the planning process and the assessments that support it are as robust as possible in understanding and, where necessary, mitigating potential adverse effects.

Travel Plan and Public Transport Strategy

6.24 A Framework Workplace Travel Plan (FWTP) has been prepared to promote sustainable travel to the Site for workers and visitors. This is shown in **Appendix H of the Transport Assessment**.

6.25 The headline aim of the Travel Plan is to:

‘To create an environment for employees that actively promotes a range of sustainable, low carbon travel choices and reduces the overall need to commute to work by car’.

6.26 The Site wide objectives of the FWTP are to:

- Minimise the overall proportion of single-occupancy car trips associated with commuting to and from the Site;
- Reduce the overall need to travel to and from the Proposed Development, especially by private car;
- Facilitate and encourage the use of healthy, low carbon and sustainable transport options amongst employees and visitors to the Site;

- Ensure that the differing transport needs of all site users are taken into account as far as practicable;
- Work in partnership with the local planning and highway authorities and other key stakeholders locally, to achieve both site-specific and area-wide reductions in single-occupancy car-based commuting; and
- Continually develop, evaluate and review progress of the FWTP delivery.

6.27 The four main strands of the FWTP measures are:

- Improving sustainable transport services and facilities;
- Promotion and marketing;
- Promoting more efficient car use; and
- Introducing smart working practices.

6.28 With respect to the first point, bus services are expected to be a key element of “sustainable transport services”. Due to the anticipated number of employees at WMI an increased frequency (from hourly to half hourly) of the 54 bus service between Wolverhampton and the Site has been identified as a possible solution. This increased frequency would then be available for all residents on the route between Wolverhampton and WMI.

6.29 A shuttle bus service will be provided, operating between WMI and significant clusters of employees. The route of this bus(es) will be decided in response to the findings of the Transport Steering Group but could include routes to Cannock, Wolverhampton and/or Walsall.

6.30 Therefore the approach of the Framework Travel Plan is to encourage and provide sustainable transport options that *will adapt to where employees come from*, within the TTWA. As such it is not intended to dramatically alter the employment catchment, but rather to improve the sustainability and reduce the impacts of this travel within in. The TTWA is therefore still a robust basis for any

consideration of employment effects of WMI, even with a Travel Plan in place.

6.31 It is possible that the new bus routes could be selected on the basis of key target areas for employment interventions. This would be decided by the Transport Steering Group taking into account these employment interventions as well as a range of other considerations.

Overview of the relationship between the Framework Travel Plan and TTWA

6.32 From an employment perspective, the important takeaways from the Transport Strategy and the framework Travel Plan are:

- The Transport Assessment is based on a TTWA which is considered to be reasonable under several different sense checks and which has been approved by the SCC and HE.
- This TTWA is a projection based on current car accessibility and does not include new initiatives such as buses, which may be brought in because of WMI. This is a worst case scenario, in line with HE methodology, which will ensure that the EIA and planning process is robust.
- The Framework Travel Plan allows for flexibility in what buses will be delivered. A Transport Steering Group will decide on the appropriate options in response to a range of factors including employee demand, and, potentially, employment initiatives.
- The Framework Travel Plan is not expected to result in a significant diversion from the TTWA (although it will make this travel more sustainable within it). If effects do happen, this is likely to result in an increase in relative accessibility to the Site for local people. This will reduce any adverse transport effects and will only have positive effects in terms of local employment ambitions.
- There is no contradiction between the Transport Assessment, the Framework Travel Plan and the TTWA for the purposes of establishing a robust Employment, Skills and Training Plan.

7 Conclusion

7.1 This Report has presented:

- **The estimated employment creation** at WMI;
- **The travel to work area** and how it was established ;
- **The labour market context for the TTWA;** and,
- **The relationship between the TTWA, the transport assessment and the ESTP.**

7.2 It has provided a summary evidence base to be used by Local Authorities and Stakeholders when they are considering potentially suitable employment initiatives and to provide context for proposed interventions.

7.3 The report demonstrates that:

- The transport assessment does not rely on employment and training initiatives to mitigate identified effects. Training initiatives would result in beneficial effects.
- The existing labour market has the capacity to meet the needs of this development.
- WMI is part of planned growth for the region: the LEP has a target of 50,000 jobs up to 2024; WMI would deliver the equivalent of 17% of this LEP-wide target. Job density in South Staffordshire is very low, and out-commuting is currently a threat to the district's economic sustainability. Job growth is needed to reverse this trend.

7.4 It demonstrates that, whilst there is some unavoidable uncertainty about the future, the work that FAL and their consultants has done has been tested and sense checked, and based on the available evidence. It therefore provides a reasonable basis for employment and transport assessments.

7.5 For more detail, this summary should be read in conjunction with the other assessments which will be submitted with the DCO Application and which are outlined in the *Introduction*.

Appendix 2: Labour Market Context Supplementary Statistical Information

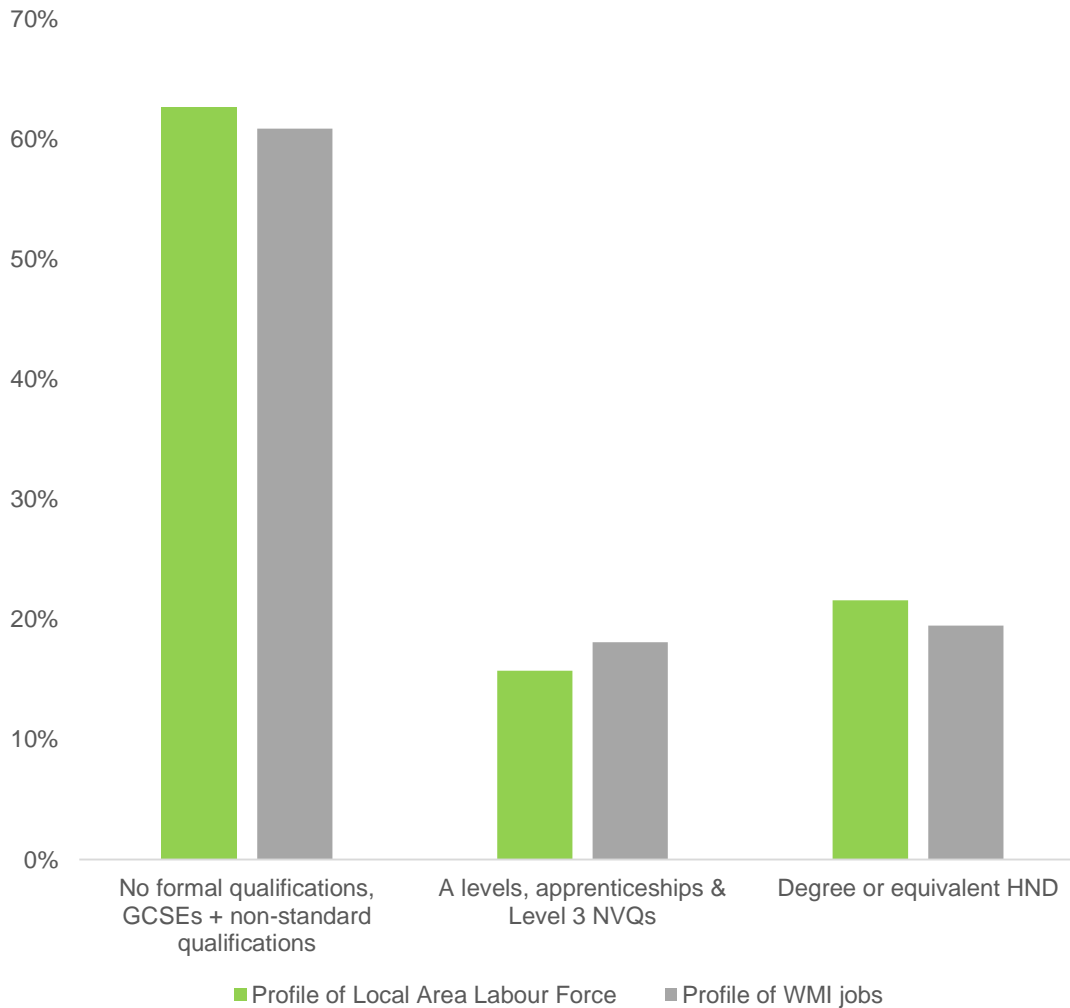


**West Midlands Interchange
Labour Market Context
Supplementary Statistical
Information**

March 2013

Quod

Local Area skills vs jobs match



Local Area defined as Staffordshire County Council, South Staffordshire District Council & Wolverhampton City Council

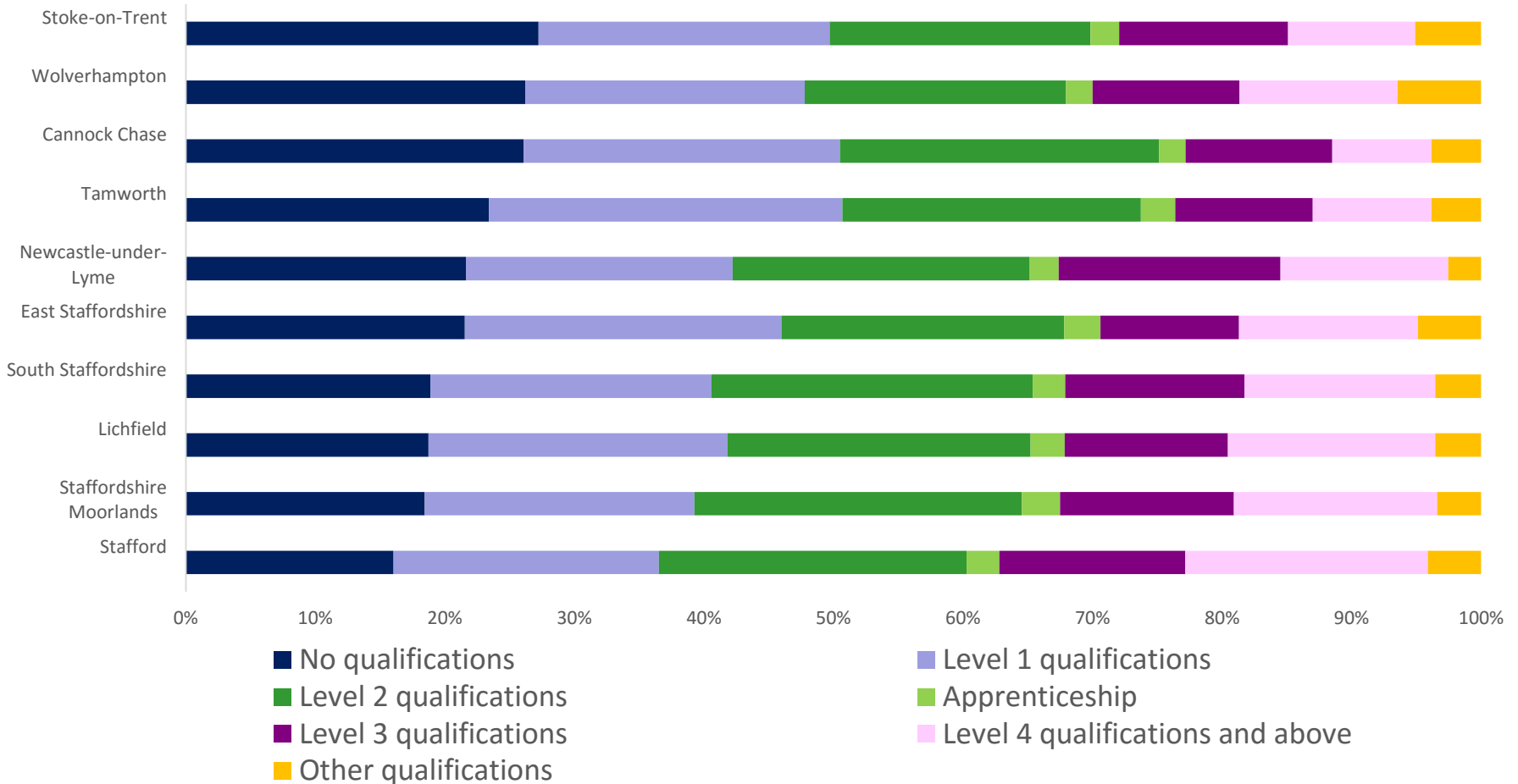
Local Area profile based on 2011 Census.

More recent information at this level of detail is not available.

All projected job numbers at WMI are estimates and based on the best available evidence and research at the time of going to print. Individual future tenants will have their own specific requirements and working practices which may affect the types of positions available.



Skill level of unemployed residents %



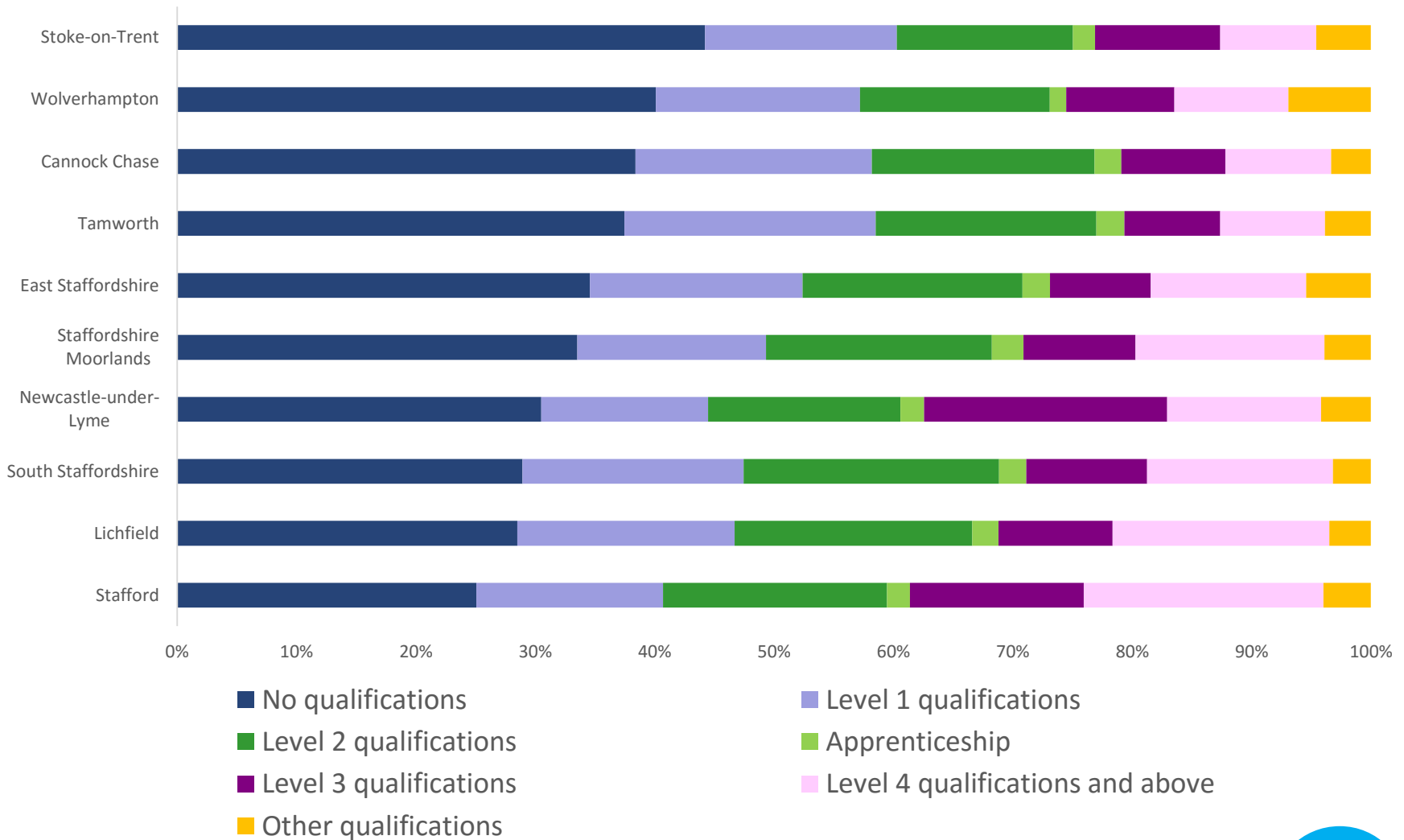
Local Area profile based on 2011 Census.
 More recent information at this level of detail
 is not available.

Skill level of unemployed residents – absolute numbers

Unemployed Residents			GCSE - grade D, E, F or G; Level 1 NVQ	GCSE - grade A*, A, B or C; NVQ Level 2	Apprenticeship	A level - grade A, B, C, D or E, Level 3 NVQ	Level 4 NVQ, Degree, HND, Cert HE	
2011 census merged local authority district	All categories: Highest level of qualification	No qualifications	Level 1 qualifications	Level 2 qualifications	Apprenticeship	Level 3 qualifications	Level 4 qualifications and above	Other qualifications
Tamworth	2,894	677	790	667	77	307	265	111
Lichfield	2,824	529	652	661	74	356	452	100
Cannock Chase	3,810	994	930	939	78	431	292	146
South Staffordshire	3,065	579	665	760	77	424	452	108
Stafford	3,737	599	766	888	94	537	700	153
Newcastle-under-Lyme	4,178	903	861	958	94	715	541	106
Staffordshire Moorlands	2,369	437	493	599	70	318	372	80
East Staffordshire	3,625	781	886	791	102	388	500	177
Stoke-on-Trent	11,594	3,157	2,607	2,335	256	1,511	1,140	588
Wolverhampton	16,040	4,204	3,462	3,236	328	1,820	1,955	1,035
Total	54,136	12,860	12,112	11,834	1,250	6,807	6,669	2,604

Figures have not been rounded
 Local Area profile based on 2011 Census.
 More recent information at this level of detail
 is not available.

Skill level of economically inactive residents %



Local Area profile based on 2011 Census.
More recent information at this level of detail is not available.

Skill level of economically inactive residents – absolute numbers

Economically Inactive Residents			GCSE - grade D, E, F or G; Level 1 NVQ	GCSE - grade A*, A, B or C; NVQ Level 2	Apprenticeship	A level - grade A, B, C, D or E, Level 3 NVQ	Level 4 NVQ, Degree, HND, Cert HE	
2011 census merged local authority district	All categories: Highest level of qualification	No qualifications	Level 1 qualifications	Level 2 qualifications	Apprenticeship	Level 3 qualifications	Level 4 qualifications and above	Other qualifications
Tamworth	9,960	3,731	2,098	1,840	234	800	873	384
Lichfield	12,928	3,682	2,356	2,573	284	1,236	2,348	449
Cannock Chase	13,291	5,102	2,633	2,479	298	1,158	1,177	444
South Staffordshire	13,635	3,943	2,526	2,919	310	1,381	2,122	434
Stafford	17,413	4,364	2,723	3,266	335	2,535	3,497	693
Newcastle-under-Lyme	20,272	6,184	2,832	3,267	403	4,127	2,615	844
Staffordshire Moorlands	12,547	4,205	1,985	2,371	333	1,179	1,985	489
East Staffordshire	15,644	5,409	2,788	2,879	363	1,320	2,038	847
Stoke-on-Trent	44,194	19,541	7,100	6,522	821	4,626	3,556	2,028
Wolverhampton	41,507	16,643	7,099	6,593	574	3,761	3,964	2,873
Total	201,391	72,804	34,140	34,709	3,955	22,123	24,175	9,485

Figures have not been rounded

Local Area profile based on 2011 Census.

More recent information at this level of detail is not available.



Appendix 3: Bespoke ESTP Structure



EMPLOYMENT, SKILLS AND
TRAINING PLAN

[OCCUPIER/CONTRACTOR
NAME]

Contents

1	INTRODUCTION	1
2	PROPOSED DEVELOPMENT	2
3	OCCUPIER PROFILE.....	3
4	COMMITMENTS	4
5	REPORTING AND MONITORING	5
6	SUMMARY AND COMMITMENTS.....	7

1 INTRODUCTION

1.1 This Employment, Skills and Training Plan (ESTP) sets out how [the occupier]/[the contractor] will put in place initiatives to achieve progress against the 15 success metrics set out in the WMI ESTP Framework.

1.2 It sets out:

1. The Proposed Development i.e. the units, floorspace and/or works package covered by this ESTP
2. The Occupier/Contractor profile
3. Commitments:
 - Engaging with the Brokerage Coordinator
 - Achieving progress against the 15 success metrics
 - Reporting and Monitoring

2 PROPOSED DEVELOPMENT

2.1 This Phase of Development comprises the construction/operation of:

- [Floorspace]
- [Area in sqm GEA]
- [Redline]
- [Works packages]

3 OCCUPIER PROFILE

a) **Company Profile**

3.1 [...]

b) **Company vision**

3.2 [...]

c) **Summary of Operations at WMI**

3.3 [...]

3.4 [#] jobs to be created

3.5 Skill profile of jobs to be created

3.6 Phasing of jobs if relevant

d) **Overall Approach to Recruitment**

3.7 [...]

e) **Overall Approach to Training and Career Progression**

3.8 [...]

4 COMMITMENTS

a) Agreeing to the Occupier and Contractor Charter

4.1 We agree to the commitments set out in the Occupier/ Contractor Charter set out in the ESTP Framework.

b) Engaging with the Brokerage Coordinator

4.2 We commit to positively and proactively engaging with the Brokerage Co-ordinator as specified under Section 4 of the Framework ESTP.

c) Achieving progress towards the 15 success metrics

4.3 We will implement the following initiatives to achieve the 15 metrics set out the ESTP Framework.

Metric	Means of achieving metric
	[...]
	[...]
	[...]
	[...]
	[...]

5 REPORTING AND MONITORING

5.1 As a Tier One Contractor/ Occupier we will be required to identify ways in which we will progress towards achievement of 15 Success Matrices set out in the ESTP Framework.

5.2 We will attend a pre-contract/occupation meeting at which the methods of monitoring and reporting will be agreed with the Brokerage Coordinators. This information is likely to include six monthly reporting on:

- Number of people employed at the site;
- % of employees resident within SSDC, SCC and CWC, by postcode;
- Number of apprentices working on site;
- Skills profile of labour force;
- Trainee's progress on site;
- Number of weeks trainees engaged on site;
- Skills attained/Qualification achieved;
- Support needed by contractors/occupiers from Brokerage Co-ordinators; and,
- Any other relevant and reasonable information agreed in advance with the Brokerage Co-ordinators.

5.3 Employment status¹ of recruits will be monitored by the Brokerage Coordinators.

¹ Employees will be considered to have come out of unemployment if they are 16 or over and meet one of two definitions. Prior to their employment at WMI they either met the ILO definition of unemployment or the ONS definition of economically inactive.

This is on the date that that the candidate submitted their job application for a job at WMI, they were a) without work for four weeks, i.e. were not in paid employment or self-employment; b) currently available for work, i.e. were available for paid employment or self-employment within two weeks of applying; and c) seeking work, i.e. had taken specific steps to seek paid employment or self-employment

OR

People not in employment who have not been seeking or in work within the last 4 weeks

6 SUMMARY AND COMMITMENTS

6.1 The [site] has the potential to accommodate up to approximately [### jobs] once complete and operational/during construction.

6.2 [overview of type of jobs]

6.3 [track record] [overview of approach]

6.4 We are committed to:

- #
- #
- #
- #
- #
- #
- #

APPENDIX 4

EMG SoS DECISION LETTER



Department for Transport

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Enquiries: 020 7944 3293

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Web Site: www.gov.uk/dft

Our Ref: TWA 8/1/15
Your Ref: HUTTONL/302720-000006
12 January 2016

Dear Sirs,

PLANNING ACT 2008 APPLICATION FOR THE PROPOSED EAST MIDLANDS GATEWAY RAIL FREIGHT INTERCHANGE AND HIGHWAY ORDER

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to the report of the Examining Authority comprising a panel of three members, Paul Hudson, Lorna Walker and Gavin Jones, who conducted an examination into the application made by Roxhill (Kegworth) Limited (“the applicant”) on 29 August 2014 for the East Midlands Gateway Rail Freight Interchange and Highway Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”).
2. The examination of the application began on 12 January 2015 and was completed on 12 July 2015. The examination was conducted on the basis of written evidence submitted to the Examining Authority and by a series of hearings held in Kegworth and Loughborough between 4 February 2015 and 1 July 2015.
3. The Order would grant development consent for a Strategic Rail Freight Interchange (“SRFI”) on land to the immediate north of East Midlands Airport near Castle Donington, Leicestershire. The SRFI would include a new rail line, rail freight terminal, warehousing and an intermodal area. The Order would also grant development consent for improvements to Junctions 24 and 24A of the M1 and to the southbound carriageway of the M1 between those junctions; and a southern bypass of Kegworth to the east of the M1. (The whole project including the highway works is referred to in this letter as “EMGRFI”.) In addition the proposed Order would contain compulsory acquisition powers in relation to land and rights that would be required for the purposes of the project.
4. Enclosed with this letter is a copy of the Examining Authority's report. The proposed development is described in section 2 of the report. The Examining Authority's findings are set out in sections 4 to 7 of the report, and their overall conclusions and recommendations are in section 8 of the report.

Summary of the Examining Authority's recommendations

5. The Examining Authority recommended that development consent should not be granted for the proposed SRFI on the grounds of non-compliance with the National Policy Statement for National Networks ("NPSNN") and that accordingly the Order should not be made.

Summary of Secretary of State's decision

6. **The Secretary of State has decided under section 114 of the 2008 Act to make with modifications an Order granting development consent for the proposals in this application.** This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 23(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

7. Please note that, although this letter refers to the decision of "the Secretary of State", Patrick McLoughlin has not personally been involved in this decision because of his potential interest, since his constituency is near to the EMGRFI site. The decision has in practice been taken by the Minister of State for Transport, Robert Goodwill, but the decision has by law to be made in the name of the Secretary of State.

Secretary of State's consideration

8. The Secretary of State's consideration of the Examining Authority's report is set out in the following paragraphs. Unless otherwise stated, all paragraph references are to the Examining Authority's report ("ER") and references to requirements are to those in Schedule 2 to the Order, as set out in Appendix D to the ER.

Policy justification for the development

9. The Secretary of State notes that, following the designation of the NPSNN on 14 January 2015, he is required by section 104(3) of the 2008 Act to decide this application in accordance with the NPSNN (subject to certain exceptions which are not relevant in this case). He has therefore considered first the Examining Authority's assessment (in section 4.2 of the ER) of the extent to which the EMGRFI project would meet the requirements of the NPSNN.

NPSNN requirements as to the location and scale of SRFIs

10. The Examining Authority referred to paragraph 2.56 of the NPSNN which provides that it is important that SRFIs are located near the business markets that they will serve and are linked to key supply chain routes. They noted in this regard that the site of the proposed SRFI would be adjacent to the M1, in a central location in the Midlands providing access to a large proportion of the national population, and very close to the existing rail freight network providing access to key deep sea ports. For these reasons the Secretary of State agrees with the Examining Authority that the EMGRFI project complies with the locational criteria for SRFIs set out at paragraphs 4.84-87 of the NPSNN and he considers that the locational benefits of the project should carry significant weight (ER 4.2.4-9).

11. The Examining Authority also found that EMGRFI was compliant with the requirements as to scale set out in paragraph 4.89 of the NPSNN. This was on the basis that the SRFI would be capable of handling freight trains of the optimum length (up to 775

metres long); that there were no barriers to constructing both east and west facing connections onto the Castle Donington branch line; that capacity could be made available on the branch line to handle the likely level of freight trains using the SRFI; and that the SRFI would be capable of handling 16 trains per day each way in due course. The Secretary of State accordingly agrees with the Examining Authority that the scale requirements set out in the NPSNN are fully met (ER 4.2.29-32).

Need for the proposed SRFI

12. As regards whether the proposed SRFI is needed, the Government has accepted at paragraph 2.56 of the NPSNN that nationally there is a compelling need for an expanded network of SRFIs. At the local level, the Secretary of State notes the applicant's view in its Planning Statement - which the Examining Authority accepted - that there is a strong market demand for SRFIs in the area of Leicester, Nottingham and Derby and that this is likely to continue to grow in the future. While he considers that it is for the market to determine the viability of particular proposals, he is satisfied that taking into account the applicant's assessment of alternative sites – which the Examining Authority also accepted - the EMGRFI site is in principle a suitable one for serving the area of Leicester, Nottingham and Derby (ER 3.2.20-23, 4.2.33-44).

NPSNN requirements applicable to highways

13. With regard to the highway proposals forming part of the EMGRFI project, the Examining Authority had some doubts as to whether these had been assessed strictly in accordance with the WebTag guidance normally required for such projects by the NPSNN. However, the Secretary of State is satisfied, like the Examining Authority, that taking into account the information provided in the applicant's Transport Assessment and the environmental analysis of the impacts of the highway proposals set out in the Environmental Statement ("ES"), the assessment requirements of the NPSNN have been met (ER 4.2.45-56, 5.18).

NPSNN requirements as to the functionality and design of SRFIs

14. The Secretary of State has considered very carefully the Examining Authority's conclusion that the EMGRFI project would not meet the requirements as to the functionality and design of SRFIs, set out in paragraphs 4.83 and 4.88 of the NPSNN, for the reasons given at ER 4.2.14-28 and 4.2.58-62.

15. The Examining Authority's first concern was that the SRFI would not be able to accommodate rail activities "*from the outset*" (paragraph 4.83 of the NPSNN) or be capable of providing "*for a number of rail connected or rail accessible buildings for initial take up*" (paragraph 4.88 of the NPSNN). The Examining Authority considered that these requirements would not be met because a number of warehousing units would be constructed at the outset of the development programme, but would not be rail accessible until the rail link was constructed, which would take 3 years. This meant that rail activities would not be available at the outset, nor the warehouse buildings rail accessible for initial take up (ER 4.2.14, ER 4.2.22-4.2.24).

16. The Secretary of State does not agree with the Examining Authority that the fact that a proportion of the warehousing would be made available for use in the period of 3 years during which the rail link was being constructed means that the project would fail to meet the functionality requirements of the NPSNN referred to above. He appreciates that the

construction of warehousing and the construction of a new railway will involve different timescales and he considers it entirely reasonable that a commercial undertaking should seek to generate income from the warehousing facilities before the railway becomes operational. The Secretary of State considers that the interpretation of these NPSNN requirements must allow for the realities of constructing and funding major projects such as this. Having regard to the terms of paragraph 4.83 of the NPSNN, he is satisfied that, from the outset, this SRFI is being developed in a form that can (that is, will be able to) accommodate rail activities. He considers further that it is not unreasonable to regard the requirement for rail accessible buildings to be available “for initial take up” as having been effectively met in the circumstances of this project, taking into account the time required for essential earthworks and for subsequent construction of the rail infrastructure, the 30 year period planned for the build-up of rail operations and the limitation on how much warehousing can be occupied before the rail line is operational (see paragraph 24 below).

17. The Examining Authority’s second concern was that the SRFI would not meet the requirement in the last sentence of paragraph 4.88 of the NPSNN, namely that “*it is not essential for all buildings on the site to be rail connected from the outset, but a significant element should be*’. The Examining Authority considered that, because none of the proposed warehousing would be directly rail-connected (according to the applicant’s Works Plan and Illustrative Masterplan), the proposals in the application would fail to meet this requirement, both at the outset and when the development was fully completed (ER 4.2.16-17).

18. The Secretary of State notes that the proposed arrangement at the SRFI is that rail-borne freight would be transported between the terminal and individual warehouses by road-based tractors. He considers that this would, at the least, mean that the warehouses would be “rail accessible” or “rail served”, even if not directly connected in terms of rail sidings being physically located in close proximity to warehousing units. He considers that the proposed form of connection between warehouses and the rail freight terminal is sufficient to satisfy the objective of this part of the NPSNN, namely to facilitate and encourage the transport of freight by rail.

19. The Secretary of State accepts that on a narrow interpretation of paragraph 4.88 of the NPSNN the application proposals would not provide a significant element of directly rail-connected warehousing units. However he considers that, reading paragraph 4.88 with paragraphs 4.83 and 4.85 of NPSNN, the proposed SRFI would be compliant with the policy in the NPSNN as a whole in that from the outset it would be developed in a form that can accommodate both rail and non-rail activities and that the links to the road and rail networks would certainly be adequate. Moreover, in the Secretary of State’s opinion the need for and other benefits of the project recognised by the Examining Authority (at ER 5.1.57) are important and relevant matters, to which regard must also be had (under section 104(2)(d) of the 2008 Act), and which overcome, in any event, the Examining Authority’s concerns that were based on a narrow interpretation of the last sentence of paragraph 4.88 taken in isolation.

20. The Examining Authority’s third concern was that the SRFI would not meet the requirement in paragraph 4.88 of the NPSNN that the proposals should include “*rail infrastructure to allow more extensive rail connection within the site in the longer term*”. The Examining Authority considered that, as there were no proposals within the application to extend the rail connections within the site once the rail freight terminal had been fully completed, this criterion had not been met (ER 4.2.17).

21. The Secretary of State accepts that the application proposals do not provide specifically for future extension of the rail infrastructure beyond that which would be authorised by the Order. He considers, however, that the capacity which the currently proposed rail facilities would provide, without any future extension, is such as to allow a substantial volume of rail freight traffic to and from the site (the equivalent of up to 1800 HGV movements per day). He is satisfied that, if realised, this would make a significant and worthwhile contribution to modal transfer which is a key objective of the NPSNN policies for SRFIs.

22. The Examining Authority's fourth concern was that the SRFI would not meet the requirement of paragraph 4.88 of the NPSNN that "*the initial stages of the development must provide an operational rail network connection and areas for intermodal handling and container storage*". Aside from the issue of whether the timing of the completion of the rail facilities would satisfy the requirement of being provided in the "initial stages of the development" (considered above), the Examining Authority was concerned about the consequences of permitting the occupation of nearly 47% of the proposed total volume of warehousing before the rail connection was operational. The Examining Authority considered that there was a risk that the first phase at least of warehousing could remain essentially a road-based operation (ER 4.18-28).

23. The Secretary of State recognises that on a narrow interpretation of the phrase "the initial stages of development" this part of paragraph 4.88 of the NPSNN would not be satisfied. However, for the reasons given at paragraph 16 above, he considers that the rail network connection, the area for intermodal handling and the container storage would be provided as early as reasonably practicable in the carrying out of this development. He considers further that, as at paragraph 19 above, the application proposals are in compliance with the policy in paragraphs 4.83 to 89 of the NPSNN when considered as a whole.

24. With regard to the risk that a significant part of the development could remain road-based, the Secretary of State considers that the requirement for the rail freight terminal to be operational before the occupation of more than 260,000m² of rail served warehousing gives sufficient assurance that the rail facilities will be delivered as soon as is reasonably practicable in the programme for this development. While he accepts that in a commercial project of this sort there can be no absolute certainty that the rail facilities will be used to their fullest extent, he is reassured that the strong and growing demand for rail freight facilities including SRFIs recognised by the Examining Authority, and as expressed in the NPSNN (paragraph 2.45), means that there are reasonable prospects that as this SRFI is developed it will fulfil its potential for contributing to modal transfer in the freight sector, which is the clear purpose of this application.

25. In drawing together their conclusions on the extent to which the EMGRFI project complied with the NPSNN at ER 4.57-62, the Examining Authority said that they found it difficult to reconcile elements of the application as a SRFI against the functional and design requirements set out in the NPSNN. They therefore concluded that the application did not comply with paragraphs 4.83 and 4.88 of the NPSNN.

26. In contrast, the Secretary of State considers that in a number of respects the Examining Authority has taken too restrictive a view on how the NPSNN requirements for SRFIs should be applied to the particular features of this project. He notes in this regard that paragraph 2.45 of the NPSNN recognises that, given the commercial nature of SRFIs, some degree of flexibility is needed when schemes are being developed to allow the

development to respond to market requirements as they arise. While the Secretary of State accepts that in some limited respects the proposals in this application do not fulfil the letter of the NPSNN – particularly in not providing for future rail extensions and not providing for direct rail connection to individual warehouses – in other respects he considers that the requirements of the NPSNN are satisfied. He considers furthermore that the EMGRFI project displays overall a substantial degree of consistency with the objectives of the NPSNN, having the potential to contribute significantly to modal transfer and to meet the national need for an expanded network of SRFIs. The Secretary of State has therefore concluded that the EMGRFI project is substantially compliant with the NPSNN requirements for SRFIs when they are considered as a whole.

Cumulative impacts with other development proposals

27. The Secretary of State agrees with the Examining Authority that the applicant's assessment of the potential cumulative impacts of the EMGRFI project with other development proposals was appropriate. He agrees also that the planning of the HS2 route is not sufficiently far advanced or certain for in-combination effects to be considered (ER 4.3.1-8, 5.1.9).

Transportation

28. The Secretary of State has considered and agrees with the Examining Authority's findings on the transportation impacts of the EMGRFI project, set out at ER 4.4.1-75 and summarised at ER 5.1.10-16. In particular he agrees that:

- there are no over-riding impediments to the proposed SRFI development as regards the availability of train paths to accommodate the forecast volumes of trains and containers;
- the applicant's Transport Assessment was appropriate and acceptable;
- the package of highway proposals would more than mitigate the impact of the SRFI within the Area of Influence and satisfy the requirements of paragraph 5.213 of the NPSNN;
- the proposed arrangements for encouraging alternatives to car usage and balancing their success with vehicle parking provision on the SRFI site are acceptable and meet the requirements of paragraph 5.208 of the NPSNN;
- the proposed changes to local access and public rights of way are satisfactory;
- construction traffic generated by the EMGRFI project would not have a significant effect on the existing highway network and would be adequately controlled by requirement 11 and Schedules 19 and 20 to the Order; and
- the benefits to the existing Strategic Road Network from the transport improvements proposed as part of the project (summarised at ER 4.4.17) would be substantial and should be accorded significant weight in the decision on this application.

Land use

29. The Secretary of State has considered the Examining Authority's assessment of the impacts of the EMGRFI project on land use at ER 4.5.1-21. He agrees with the Examining Authority that the loss of 91 hectares of grade 2 and 134 hectares of grade 3a agricultural land quality would have a major adverse effect on the availability of the best and most versatile land. He accepts that this would be a significant disbenefit of the project which would conflict with the NPSNN and with saved policies in the Local Plan on the protection of the countryside. However, in assessing the significance of this for the decision on this application, the Secretary of State notes that paragraphs 4.84 and 5.163 of the NPSNN recognise that it may not be possible to develop SRFIs without using countryside; and with regard to paragraph 5.176 of the NPSNN, he agrees with North West Leicestershire District Council that the likely financial contribution of the agricultural land to the local economy would be far outweighed by that generated by the EMGRFI project (ER 4.5.13).

Landscape and visual impacts

30. With regard to the Examining Authority's assessment of the landscape and visual impacts of the project at ER 4.6.1-31, the Secretary of State agrees that although the existing character and appearance of both the SRFI site and the area for Kegworth Bypass would clearly be altered, the wider landscape impacts would not be significantly detrimental. This is because the surrounding area already contains significant elements of built development and because the proposed earthworks and landscaping would screen views of the large warehouse buildings from the surrounding area. The Secretary of State agrees with the Examining Authority that the landscape and visual impacts of the proposed development, including lighting, are acceptable and accord with paragraphs 4.30, 4.35, 5.144-146 and 5.160-161 of NPSNN in relation to design considerations, assessment methodology and mitigation (ER 4.6.29-31, 5.1.18-20).

Historic environment

31. The Secretary of State has considered the likely impacts of the EMGRFI project on the historic environment described at ER 4.7.1-25. He notes that apart from a listed milepost there are no heritage assets within the application site and no significant archaeological remains have been discovered. He notes also the Examining Authority's view that, due to the proposed screening of the SRFI site, the development would not cause substantial harm to the settings of any of the conservation areas or listed buildings in the nearest settlements; and that, subject to compliance with requirements 2 and 13, there would not be significant impacts on any archaeological features. The Secretary of State agrees with the Examining Authority that the impacts of the project on the historic environment are acceptable and that the proposal accords with paragraphs 5.126-127 of the NPSNN (ER 4.7.26-29).

Noise and vibration

32. The Secretary of State has noted the Examining Authority's assessment at ER 4.8.1-16 of the noise and vibration impacts of the project. He agrees with the Examining Authority that the relatively high levels of existing and background noise make it unlikely that there would be any discernible changes as a result of the proposed EMGRFI development as a whole, either during construction or when operational; and that vibration levels during the construction and operation of the development are unlikely to be significant. As regards the highway proposals, the Secretary of State notes that these are likely to result in noise reductions in some areas, particularly as a result of the Kegworth Bypass, and agrees that

this would be an overall benefit of the project. He agrees further that the proposed requirements covering construction and operational noise are appropriate and meet the tests in paragraph 5.196 of the NPSNN (ER 4.8.17-18, 5.1.23-24).

Biodiversity, ecology and nature conservation

33. The Secretary of State has considered the Examining Authority's assessment of the impacts of the EMGRFI project on biodiversity, ecology and nature conservation described at ER 4.9.1-45. He agrees with the Examining Authority that the project would not be likely to give rise to a significant effect on the River Mease Special Area of Conservation or on any other European designated site and that no appropriate assessment is therefore required. He agrees also that the project would not adversely affect the Lockington Marshes SSSI or the Oakley Wood SSSI. More generally, he notes that the habitats at the application site are unremarkable and agrees that the arable fields that would be lost are of limited conservation significance. He notes also that the proposed landscape strategy would include a substantial bund to the north of the SRFI site to be planted with new areas of wildlife grassland, hedgerows and trees.

34. The Secretary of State agrees with the Examining Authority that the impact of the proposed development on biodiversity, ecology and nature conservation would be broadly neutral and generally meets the requirements of paragraphs 5.23-38 of the NPSNN. The exception would be the unavoidable loss of veteran trees, and the loss of calcareous grassland which would be relocated (ER 4.9.43-45, 5.1.25-28). The Secretary of State confirms that in deciding this application he has had regard to the purpose of conserving biodiversity in accordance with section 40(1) of the Natural Environment and Rural Communities Act 2006.

Climate change adaptation and carbon emissions

35. The Secretary of State notes that, although climate change adaptation had not been presented as a specific matter in the applicant's ES, the Examining Authority were satisfied that it had been considered throughout the design of the project and that the requirements of paragraphs 4.36-47 of the NPSNN had been met. He notes also that the design approach for the proposed warehouses should lead to energy efficiency maximisation and a small reduction in CO₂ emissions. With regard to the predicted reduction in carbon emissions as a result of the removal of HGVs from the transport network, the Secretary of State agrees with the Examining Authority that the uncertainty as to the extent of the use of the new rail line is a disbenefit to be weighed in the balance. He nevertheless considers that this is offset by the potential significant benefit of the shift of freight traffic from road to rail that could be achieved if the rail line is used to its full capacity, and by the reduction in air pollution and carbon emissions which the highway improvements would deliver (ER 4.10.1-17, 5.1.29-30). The Secretary of State is satisfied that the EMGRFI project does not conflict with the objectives of paragraphs 5.16-19 of the NPSNN in relation to carbon emissions.

Flood risk

36. The Secretary of State notes that the applicant had carried out a comprehensive review of the possible impact on flooding of the EMGRFI project as a whole, the adequacy of which has been confirmed by the Environment Agency and the local authorities, and he is satisfied that it meets the requirements of paragraphs 5.98-99 of the NPSNN. He agrees with the Examining Authority that the risk of localised flooding in Hemington and Lockington as a direct result of implementing the project would not be worsened, and may be somewhat

alleviated by the flood protection measures. He notes also that the flood plain compensation measures should ensure that no extra flooding is caused by the development and agrees with the Examining Authority that, overall, there would be a benefit from the project in terms of reduced risk from flooding (ER 4.11.1-22, 5.1.31-33).

Water quality and resources

37. The Secretary of State is satisfied that the applicant has carried out a comprehensive assessment of the possible impacts of the project on controlled waters and has proposed suitable mitigation measures. He agrees with the Examining Authority that the proposed development would meet the requirements of paragraphs 5.1.219-231 of the NPSNN and that the impacts on water quality and resources would be broadly neutral (ER 4.12.1-9).

Civil aviation

38. The Secretary of State agrees with the Examining Authority that the effects of the proposed development on civil aviation have been properly assessed in line with paragraph 5.59 of the NPSNN and that the proposed development would not significantly impede or compromise the safe operation of the East Midlands Airport as required by paragraph 5.63 of the NPSNN. He is satisfied also that the protection of the airport would be appropriately secured by requirement 7 and by Schedule 16 to the Order (ER 4.13.1-24, 5.1.35-36).

Socio-economic impacts

39. The Secretary of State agrees with the Examining Authority that the applicant's assessment of job generation during construction and operation is credible. According to this assessment, the development would be likely to have a minor beneficial effect on employment during construction (generating an average of 688 jobs per year) and a major beneficial effect at the regional level during operation (creating 7,272 new jobs). He agrees also with the Examining Authority that the generation of employment would be unlikely to lead to substantial additional housing requirements in the locality; and that the health and well-being impacts of the project would be broadly neutral. The Secretary of State accordingly agrees with the Examining Authority that there would be significant benefits from the proposed development in terms of potential employment creation, and he attaches considerable importance to this factor in coming to a decision on this application (ER 4.14.1-36, 5.1.37-40).

Construction

40. The Secretary of State notes that the applicant's Construction Management Framework Plan sets out the general principles of the systems and controls to be used for minimising the adverse environmental effects of the project; and that a Construction Environmental Management Plan ("CEMP") for each phase of the project, to be approved by the local planning authority, would provide the detailed mitigation, monitoring and enforcement measures for that phase. He agrees with the Examining Authority that these Plans can form an acceptable basis for mitigating the environmental impacts of the project and that requirement 11 as proposed by the Examining Authority would ensure that all matters relating to construction activities would be covered by the CEMPs (ER 4.15.1-15).

Land instability, geology, soils, groundwater, earthworks and contamination

41. The Secretary of State has considered the Examining Authority's assessment of these matters at ER 4.16.1-20. Taking into account the evidence submitted by the applicant, including the ES and the Statement of Common Ground with the local authorities, the Environment Agency and Highways England, he agrees with the Examining Authority that the underlying geology and soils are suitable for the proposed development. He notes also that there is no evidence that the applicant's earthworks calculations and modelling are incorrect, nor that an overall materials balance could not be achieved. He agrees, however, that additional information about the detailed design of the earthworks should be subject to approval by the local planning authority under requirement 12 as recommended by the Examining Authority (ER 4.16.21).

42. The Secretary of State notes that none of the assessment work carried out so far has indicated the presence of any contamination. He is satisfied that requirements 24 and 25 as recommended by the Examining Authority would deal adequately with the issue of any contamination that was encountered during implementation of the project (ER 4.16.22).

43. The Secretary of State agrees with the Examining Authority that the impacts of the project on land instability, geology, soils, groundwater, earthworks and contamination environment are acceptable. He is satisfied also that the applicant's assessment of the predicted impacts of the project complies with the requirements of paragraphs 5.116-117 of the NPSNN (ER 4.16.23).

Air quality

44. The Secretary of State has considered the Examining Authority's assessment of the air quality impacts of the project at ER 4.17.1-15. He agrees that, on the basis of the applicant's assessment modelling, there would not be any significant air quality impacts as a result of either the construction or operational phases of the project. He notes, however, that the CEMP would be an important factor in safeguarding air quality during construction (4.17.16). As regards the operational phase, the Secretary of State agrees that the worsening of air quality at a few locations would not be unacceptable and would be outweighed by the air quality benefits that would arise elsewhere as a result of the project. While he accepts that this is dependent on the modal shift of freight from road to rail taking place as envisaged, as noted at paragraph 24 above, he considers that there are reasonable prospects that the proposed SRFI will in due course realise its potential in this regard (ER 4.17.17).

45. For these reasons, the Secretary of State agrees with the Examining Authority that the applicant's assessment of the air quality impacts of the project comply with paragraphs 5.7-9 of the NPSNN. He is satisfied also that the impacts of the project on air quality are acceptable and comply with the decision-making requirements in paragraphs 5.10-13 of the NPSNN (ER 4.17.18).

Dust and other potential nuisance

46. The Secretary of State agrees with the Examining Authority that appropriate mitigation of dust and other emissions during construction would be secured through the submission to the local planning authority of dust management plans ("DMPs") within the CEMP for each phase of the development in accordance with requirement 11. He is satisfied also that, due to the nature of the construction and operational activities, other potential

nuisances such as odour, steam and insect infestations would not be a significant issue. The Secretary of State has concluded, like the Examining Authority, that dust and other nuisance impacts during either construction or operational phases of the proposed development would be broadly neutral. He agrees further that the applicant's assessment of these matters accords with paragraphs 5.84-86 of the NPSNN, and that the requirement for the preparation of DMPs satisfies paragraphs 5.87-89 of the NPSNN (ER 4.18.1-15).

Waste management

47. The Secretary of State has considered the Examining Authority's assessment of waste management issues during the construction and operational phases of the project at ER 4.19.1-11. He recognises, in particular, that the extent of waste management during the construction phase would depend almost entirely on the accuracy of applicant's earthworks modelling - specifically whether a materials balance could be achieved between the amount of earth cut and the amount used for fill in constructing the SRFI (see paragraph 41 above). Subject to that, and to the inclusion in the Order of additional requirements for dealing with controlled wastes and for the submission of a waste management scheme for all the operators at the site, he agrees with the Examining Authority that the arrangements for waste management are acceptable and that the proposals accord with paragraphs 5.42-44 of the NPSNN (ER 4.19.12-13).

Utilities

48. The Secretary of State agrees with the Examining Authority for the reasons given that there would be no significant impact on existing utilities or difficulties in providing for future demands arising from the proposed development (ER 4.20.1-12).

Overall conclusion on the case for development consent

49. The Examining Authority concluded at ER 5.1.5 and 5.1.52-55 that, in the light of its analysis of the policy justification for the development (considered at paragraphs 9 to 26 above), the application did not meet all the requirements for SRFIs specified in paragraphs 4.83 and 4.88 of the NPSNN; and that, as these went to the heart of the objectives for SRFIs, development consent should be refused. For the reasons given at paragraph 26 above, the Secretary of State does not agree with the Examining Authority's assessment as to the extent or significance of the project's non-compliance with the NPSNN requirements for SRFIs. He considers, specifically, that the extent to which EMGRFI proposals do not comply with the letter of the NPSNN criteria for SRFIs is relatively limited and acceptable. He is satisfied also that the extent of non-compliance does not undermine potential for EMGRFI to contribute significantly to achieving the objectives of NPSNN for modal transfer.

50. Turning to other aspects of the NPSNN, the Secretary of State agrees with the Examining Authority that the EMGRFI project is broadly compliant with the assessment principles and generic impacts set out in the NPSNN, taking into account the conclusions on the matters considered in paragraphs 27 to 48 above. He agrees further that, balancing all the adverse impacts of the development identified in those paragraphs against the need for the proposed SRFI and the significant benefits of the project there is a clear justification in favour of granting development consent for the project (ER 5.1.56-57). With regard to section 104(2)(d) of the 2008 Act, the Secretary of State considers that the need for this project and the transportation, socio-economic and noise benefits which it would bring are important and relevant matters for the purposes of his decision and that they outweigh the

Examining Authority's concerns based on the narrow approach to interpreting the policy requirements of the NPSNN.

51. The Secretary of State has therefore concluded that, having regard to section 104(3) of the 2008 Act, it is in accordance with the NPSNN to give development consent for the EMGRFI project. He is satisfied also that, taking into account his foregoing conclusions, none of the exceptions referred to in section 104(4) to (8) of the 2008 Act apply so as to require him not to decide the application in accordance with the NPSNN.

Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

52. The Secretary of State agrees with the Examining Authority that the environmental information provided by applicant in its ES meets the definition given in regulation 2(1) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 ("the 2009 Regulations") (ER 1.1.8). He confirms for the purposes of regulation 3(2) of the 2009 Regulations that, in coming to the above conclusions, he has taken into consideration all the environmental information in accordance with regulation 3(2) of the 2009 Regulations. For the purposes of regulation 23(2)(d)(iii) of the 2009 Regulations, the Secretary of State considers that the main measures to avoid, reduce and, if possible, offset the major adverse environmental impacts of development are those specified in the requirements.

Compulsory acquisition and related matters

53. The Secretary of State has considered the compulsory acquisition powers sought by the applicant against the tests concerning compulsory acquisition in sections 122 and 123 of the 2008 Act, relevant guidance and the Human Rights Act 1998, and has taken into account the case of the one objection to those powers from Lafarge Tarmac. He agrees, firstly, with the Examining Authority that alternatives to the proposed development have been satisfactorily considered (ER 6.1.38). He notes also that as the applicant already controls a substantial amount of the land required for the development, the compulsory acquisition of freehold land would be limited to 11.5 hectares. The remainder of the compulsory acquisition powers in the Order would be for rights over third party and unknown interests (ER 6.1.40-42). The Secretary of State, therefore, agrees with the Examining Authority that the risk that compensation liabilities could not be met is relatively low. He nevertheless considers that it is appropriate to include a provision in the Order requiring a guarantee to be in place before compulsory acquisition powers are exercised (ER 6.43-45).

54. The Secretary of State is satisfied that, in the light of his conclusion that development consent should be granted for the EMGRFI project, a compelling case in the public interest has been made for the compulsory acquisition of the land and rights that are needed to implement the project. He agrees also with the Examining Authority that all of the interests subject to the powers of compulsory acquisition under the Order are required to carry out the development; and that the tests in section 138 of the 2008 Act in relation to the extinguishment of rights and the removal of apparatus of statutory undertakers are met. The Secretary of State agrees further that the requirements of Article 1 of the First Protocol to, and Articles 6 and 8 of, the European Convention on Human Rights have been met. (ER 6.1.46-60).

55. The Secretary of State has accordingly concluded that the compulsory acquisition and other powers over land included in the Order as recommended by the Examining Authority are appropriate and justified (ER 6.1.63-64).

The Draft Development Consent Order

56. The Secretary of State has considered the Examining Authority's description of the evolution of the Order and their comments on the content of the Order in section 7 of the ER. Having concluded above that development consent should be granted for the EMGRFI project, he is satisfied that the form of the Order recommended by the Examining Authority at ER 7.1.46 is appropriate, subject to the modifications referred to below. In reaching this decision he has taken into account the development consent obligations completed by the applicant for the benefit of Nottinghamshire County Council, North West Leicestershire District Council and Leicestershire County Council.

57. The modifications which the Secretary of State has decided to make to the Order are as follows:

- in article 8 (application and modification of legislative provisions), to delete paragraph (3) because he does not consider that it is appropriate for the Order (as secondary legislation) to alter the provisions in the 2008 Act (as enacted by Parliament) which specify that the Secretary of State is "the appropriate authority" for agreeing to modify or discharge development consent obligations;
- to modify paragraph (1) of article 24 (guarantees in respect of payment of compensation) to provide that the approval of guarantees or other form of security should be given by the local planning authority, rather than the Secretary of State; the Secretary of State considers that it would be more appropriate for the local planning authority to perform this function as it is the body mainly responsible for approving such detailed matters under the requirements;
- in Schedule 2, requirement 5, to correct the drafting error relating to the triggers for the provision of highway improvements, as explained in the letter of 14 October 2015 from the applicant's legal adviser, Eversheds LLP;
- in Schedule 2, requirements 11(2), 12, 13(3) and 24, to delete wording which would appear to allow the local planning or highway authority to dispense with compliance with the requirements in question; the Secretary of State considers that article 42(2) (governance of requirements and protection of interests relating to highway works) provides appropriately for the amendment of details, plans or other matters that have previously been approved by the relevant authority under those requirements;
- to amend Schedule 21 as a consequence of the change of the name of Lafarge Aggregates Limited to Tarmac Aggregates Limited, as requested in the letter of 27 August 2015 from their legal adviser, Nabarro LLP; and
- to make a number of further drafting changes in the interests of clarity, consistency and precision; the Secretary of State considers that none of these changes substantively alter the effect of the Order.

Representations since the close of the examination

58. In addition to the correspondence referred to in paragraph 57 above, the Secretary of State received further representations from Lockington cum Hemington Parish Council on 17 November 2015 and from Castle Donington Parish Council on 7 December 2015 referring

to geological testing being carried out by the applicant on the site of the proposed development. He does not, however, consider that anything in the correspondence constitutes new evidence, or raises a new issue, which needs to be referred to interested parties before he proceeds to a decision on this application. They do not cause him to take a different view on the matters before him than he would otherwise have taken based on the Examining Authority's report.

Secretary of State's overall conclusions and decision

59. For all the reasons given in this letter, the Secretary of State is satisfied that it is appropriate to grant development consent for the EMGRFI project and to give the powers required by the applicant to implement the project. He confirms that, in reaching his decision on this application he has, as required by section 104(2) of the 2008 Act, had regard to the NPSNN, to the local impact reports submitted by Leicestershire County Council, the North West Leicestershire District Council and Derbyshire County Council, and to all other matters which he considers important and relevant to his decision. The Secretary of State has accordingly decided to make the Order in the form recommended by the Examining Authority, subject to the modifications referred to at paragraph 57 above.

Challenge to decision

60. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

61. The Secretary of State's decision on this application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Yours faithfully,

Martin Woods

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 is being published on the Planning Inspectorate website at the following address:

<http://infrastructure.planninginspectorate.gov.uk/projects/east-midlands/east-midlands-gateway-rail-freight-interchange/>.

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).