

Your Ref: TR050005

Response to Request for Further Information

Interested Party – Reference 20015052

Response to ExQ3: 3.1.1

Thank you for offering the opportunity to respond in writing to the third set of written questions (ExQ3). I note your request not to repeat evidence already considered, have responded to each of your questions below

Part (i)

No, I do not consider there are reasonable grounds.

Given this application is being progressed as a Nationally Significant Infrastructure Project (NSIP), it is not unreasonable that the rail element of the development should be developed immediately. 186,000 sq. m. of development seems like an excessive amount of space to be developed whilst customer interested in rail-connected warehousing are found.

The fact that such a large development (up to 186,000 sq. m.) is being considered without rail connections indicates a lack of demand and weak business case for the rail-connected element of the proposed development. The Applicant has been marketing this development for a significant period, and claimed during consultation to already have significant interest from customers. I am surprised that they have been unable to secure tenants who wish to use the rail connection sooner.

If the demand for rail connected warehousing was as strong as claimed, I consider that these would be the first customers that the Applicant would look to move into the site given their clear interest in removing freight traffic from the roads. The lack of demand for rail connected warehousing this suggests fatally undermines the Applicant's overall case for this development in my view.

Since it is the rail-road interchange of WMI that justifies it as an SRFI NSIP, I contend that this disqualifies this development as an NSIP. This links to question v). The Applicant should therefore progress an application for non-rail connected warehouses through usual planning routes, and only seek an application for the RT once they have proven there is sufficient demand.

My greatest concern is that if 186,000 sq. m. of greenbelt is destroyed before the Applicant finally admits that there is little (if any) demand for rail-connected warehousing, then it will be impossible to reverse the decision at that time. This will leave us with 186,000 sq. m. of warehousing in the Green Belt which would almost certainly not have been permitted via normal planning routes.

I am also concerned that the development of 186,000 sq. m. of warehousing which is never connected to rail will create significant additional traffic in the locality, without any means of mitigation.

Part (ii)

I accept that the revised wording provides a degree of additional certainty, in that it would require the undertaker to complete a rail terminal (RT) within 6 years.

However, I refer to my response to Part (i) in that I consider a delay of 6 years as evidence of a weak business case for rail-connected warehousing.

The whole premise of this development being put forward as an NSIP is that it is rail connected. If rail connections are not attractive during this 6 year period it suggests there will be poor demand even when constructed, and the rail terminal may never reach its operational capacity even when constructed which again would disqualify it as an NSIP in my view.

I also remain concerned that a significant amount of warehousing (up to 186,000 sq. m.) would be operational with road connections only for a significant period, generating a significant number of additional road trips for up to 6 years

Part (iii)

I do not agree that the Rail Requirements should provide any increased flexibility to the timescale for the construction of the RT as a matter of principle.

In line with my comments to Part (iv), I consider the existing Rail Requirements already provide insufficient certainty. The Rail Requirements would not require any amendment if the undertaker wanted to complete the RT earlier, so any flexibility would effectively only be used to extend the timescale, adding to this uncertainty.

If the final version of the Rail Requirements do include this additional flexibility, then I agree that they should be scrutinised by a relevant authority prior to approval.

Part (iv)

No – I do not believe the Rail Requirements provide any satisfactory certainty over the construction of the RT given the Green Belt location since in all forms they permit the construction of a significant amount of warehousing in Green Belt that will be serviced solely by road.

In line with my response to Part (i) it is the rail-connected element of this development that justifies it as an NSIP. I would expect therefore that the rail connection should be a priority in the development and should be developed from Day 1

Whilst the Applicant continues to express confidence that the RT will be delivered, this is contradicted by what appears to be a concerted effort within the Rail Requirement to create a number of 'get out' clauses that would release them from ever needing to build the RT. In addition to an unacceptably long (6 year) period to generate potential demand for the rail connections, the inclusion of terms that would enable this to be extended add to my concern that the RT will never be developed.

Within a 6+ year period a large number of external factors could change:

- Changes to government policies relating to planning, transport etc. could lead to a fundamentally different decision being made.
- Network Rail will be in its next control period (CP7) which could see for example a significantly reduced appetite for this development from the Route.
- Fundamental shifts in transport or travel patterns on road or rail that are currently poorly understood (such as a switch to autonomous vehicles) that undermine the benefits case for this development.

Under the current Rail requirements as drafted, the Applicant could claim that any of these events are “matters outside the control of the undertaker” and therefore seek to cancel development of the RT. Therefore the current Rail Requirements as drafted increase rather than decrease my concerns over this development.

Part (v)

The inclusion of this decision making authority to the LPA suggests that the Applicant has reasonable grounds to assume under their ‘worst case scenario’ that it will need to further extend the timescales for completion of the RT.

I contend that, in line with comments in response to Part (i), that disqualifies the development from consideration as an SRFI NSIP, and therefore the DCO should not be valid.

The fact that the Applicant has such clear concerns over the viability of the rail element of the proposed development means that in my view the Applicant should progress application(s) for warehousing on the proposed site through the relevant routes applicable to a non-RSIP development, and only seek consent for the rail element as an SRFI once it has raised suitable interest and funds to provide confidence that it can deliver the RT.

Part (vi)

Whilst I have confidence that the LPA would consider a revised timescale appropriately, I am concerned that the Applicant would continue to make applications until it receives the outcome it wishes, and may well overload the LPA with analysis, documentation, and threat of appeal until it achieves this. I note the volume of materials produced by third party specialists on behalf of the Applicant throughout this process.

It therefore seems more appropriate that a final decision be made immediately to the Secretary of State, as I believe that the Applicant would be unlikely to accept the view of the LPA when it comes to effectively approving the development of a non-rail connected warehousing development in Green Belt.

I comment though that I do not believe this adequately mitigates the issue raised in question (v), and reiterate my comment that I believe until the rail development is guaranteed by the Applicant that this should not be considered an NSIP. In that regard the proposed amendments do not allay my concerns.