

Applicant's Responses to Deadline 7 Submissions

The West Midlands Rail Freight Interchange Order 201X

Four Ashes Limited

THE WEST MIDLANDS RAIL FREIGHT INTERCHANGE ORDER 201X
APPLICANT'S RESPONSES TO DEADLINE 7 SUBMISSIONS - DOCUMENT 18.1

1. This document sets out the Applicant's responses to other parties' submissions made to the Examining Authority (ExA) at Deadline 7.
2. No attempt has been made to respond to every single submission. The response focus on issues thought to be of most assistance to the ExA. Where points have been raised by various parties, the Applicant has responded only to one particular party, but the responses are applicable to all parties who have made the same point.
3. The Applicant does not seek to respond to all the points made where the Applicant's response is already clearly contained within other submissions made since the Application was accepted, and wayfinds to previous submissions where appropriate, save for where it is considered helpful to repeat or cross refer to the information contained in the above documentation.
4. Other 'Third Party' representations are generally summarised and responded to, based on common themes raised, however, where appropriate, the Applicant has responded individually to other 'Third Party' representations.

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Responses to 'Other Parties' Deadline 7 Submissions

Body / Individual (Reference)	Comment	Applicant's Response
<p>Statutory Bodies</p> <p>South Staffordshire District Council</p> <p>(REP7-032)</p>	<p><u>Response to ExQ3.1.1 (i)</u></p> <p><i>“Viability has been raised at a late stage – originally we were told that this was not one of the planks of the Applicant’s case (see SSDC’s comments at deadline 4) – however it now appears that this is an argument, if viability is one of the reasons proposed for granting consent then we note that:</i></p> <p><i>a) only very limited information was provided and</i></p> <p><i>b) that there is no mechanism in place to ensure that the rail connection is provided using the resources gained from that warehousing.</i></p> <p><i>We set out in appendix 1 to this note the comments from Caroline Penn Smith partner of Cater Jonas who has expressed her concerns on viability and ultimately the real risk that the rail terminal will not be built.”</i></p>	<p>It is unlikely to be helpful at this stage for the Applicant to repeat matters which have previously been set out at length. Therefore, to respond to SSDC’s comments, the Applicant’s comments are set out below, by reference to information already submitted to the Examination.</p> <p>i. The Applicant’s position in relation to viability was set out in the Applicant’s Post Hearing Submissions: Compelling Need and VSC Note (Document 14.1, Appendix 2, REP4-004). In particular, at Section 4 the Applicant explained that its case in relation to compelling need and very special circumstances was fully evidenced and advanced without reference to viability and that the component parts of that case have not been significantly disputed by the planning authorities. As explained in that document, the Applicant did not submit viability evidence as part of the justification for the application proposals. The need case is strong and free-standing and is not dependent upon a viability case.</p> <p>ii. As also explained, however, issues of viability have been raised - initially by the Inglewood objections and by</p>

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		<p>subsequent questions from the Examining Authority. The Applicant considers that issues of viability strongly reinforce its case and was happy, therefore, to provide the information requested as a reinforcement of its overall case in relation to both need and scale. Consequently, the Applicant submitted its Note on Viability (Document 15.2, Appendix 1, REP5-006) including the "Dashboard", drawn from its internal viability appraisal. A more detailed explanation of the Dashboard was requested and provided at Deadline 7 (Appendix 1, Document 17.2, REP7-004).</p> <p>iii. In its Compelling Need and VSC Note, the Applicant also made clear that issues relating to the timing of the rail freight infrastructure are separate from the question of very special circumstances and the Applicant drew attention to the Secretary of State's decision letter relating to the SRFI proposed at East Midlands Gateway, particularly paragraphs 16 and 24 in which the Secretary of State made clear that 'the construction of warehousing and the construction of a new railway will involve different timescales and that 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 considered that the interpretation of the NPS requirements 'must allow for the</p>

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		<p>realities of construction and funding major projects such as this.'</p> <p>iv. The Applicant has sought to assist the examination by providing a read out from its own viability appraisal and has demonstrated that the returns which the appraisal shows mean that the WMI project is viable and deliverable but the Applicant would not be in a position to suffer any significant increase in cost or loss in value, which might result from either infrastructure costs being brought forward further or a reduction in development area.</p> <p>v. SSDC has provided a note from Carter Jonas. The Applicant notes that there is agreement in that note to a number of significant points including:</p> <ul style="list-style-type: none"> • Development land values in the West Midlands are lower than those in the M1 corridor; • Infrastructure costs are broadly equivalent; • Primary infrastructure costs are front end loaded and "in the case of an SRFI these will be exceptionally high"; • the timing of expenditure is critical to profitability; and

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		<ul style="list-style-type: none"> the use of an IRR based approach is the suitable measure for understanding viability. <p>Nevertheless, Carter Jonas assert that "<i>it is arguable that securing pre-lets would generate higher land values than the suggested £525,000 per net acre</i>" and, on that basis, Carter Jonas suggest that the rail infrastructure could be delivered more quickly.</p> <p>These matters were addressed to some extent in the Inglewood Written Representations (now withdrawn) to which the Applicant responded at Appendix 4 (Response to WR on behalf of Inglewood Investment Company Limited) of the Applicant's Responses to Other Parties Deadline 2 Submissions (Document 11.1, REP3-007). At Annex 1 of that response, Savills on behalf of the Applicant, noted that Inglewood's advisors JLL estimated serviced land values for WMI of £450,000 per acre. Savills did not necessarily agree with that figure, although they endorsed the principle that land values would be substantially less than those achieved in the M1 corridor.</p> <p>The Applicant's valuation of £525,000 per acre set out in the WMI Dashboard is directly derived from the inputs identified in the Dashboard and explained in the Dashboard Note. The value of £525,000 per acre is the market value in this location, which is a product of the identified inputs and consistent with directly relevant comparable transactions. The financial modelling undertaken has</p>

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		<p>assumed that pre-lets would be achieved. Pre-lets advance a tenant's commitment, but they do not change the market value of property. In practice, occupiers often seek a discount rent or price in exchange for pre committing to a lease or purchase.</p> <p>In response to SSDC's comments on ExQ3.1.1 (i) b), it is not necessary to provide a direct linkage between the specific income received, and the investment in the rail infrastructure. The important point is that the simplified form of Rail Requirement to which the Applicant committed at Deadline 7. This provides an absolute obligation for the rail interchange to be provided by the earlier of the 2 specified events. The related commitments recognise that there are steps to be taken before the rail infrastructure can be provided but provide for that infrastructure to be provided as quickly as practical, whilst the simplified unconditional requirement is far more meaningful than any bond or other artificial arrangement.</p> <p>For all the reasons previously explained to the examination, the Applicant cannot earn sufficient return from 25% of the warehousing development. The development would not be cash positive at that stage and the Applicant and is therefore fully incentivised as well as legally obliged to deliver the rail infrastructure in accordance with the simplified requirement.</p>

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		<p>In this context, it is important to recognise that the commitment relates the earliest of either prior to the occupation of more than (186,000 sqm) of warehousing or to 6 years from the first occupation of more than 47,000 sqm. Each separate commitment provides a back stop to the other to ensure that the rail interchange is provided before either the quantum or the time period is exceeded. The Applicant has every commercial incentive to complete the rail terminal sooner in order to be able to meet the anticipated demand for the SRFI as a whole.</p> <p>As explained further below, (see response on Timing of Infrastructure in other "Third Party" representations), the Applicant is fully aware of the legally enforceable nature of the DCO requirements and of the severe consequences of any breach.</p>
<p>South Staffordshire District Council (REP7-032)</p>	<p><u>Response to ExQ3.1.1 (iii)</u></p> <p><i>"iii) Yes. We agree that in the event that the scheme is consented, allowing warehousing to be built ahead of the rail connection that there may be circumstances where a change in the timetable needs to be allowed for."</i></p>	<p>The Applicant notes SSDC's position which accepts some items will inevitably be outside of the control of the Applicant.</p> <p>The timing of the provision of the Rail Freight Terminal is set out in Appendix 2 to Document 11.1 submitted at Deadline 3 of the Examination (REP3-007). This appendix demonstrates that the Applicant fully understands all of the processes necessary for delivery of the rail freight terminal and correspondence within that</p>

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		<p>appendix confirms that Network Rail consider the draft programme is robust.</p> <p>In any event, however, the Applicant has committed to fixed fallback provisions for the delivery of the rail infrastructure.</p>
<p>South Staffordshire District Council (REP7-032)</p>	<p><u>Response to ExQ3.1.1 (v)</u></p> <p><i>"We share the concerns expressed [regarding Requirements 4 and 6]. The simple way to solve this dilemma is for the rail connection to be provided first.</i></p> <p><i>It is not acceptable for the variation mechanism to be used to seek to alter the scheme to something that would no longer constitute a NSIP."</i></p>	<p>As the Applicant has made clear at Deadline 7, a fixed commitment has been given to ensure the opening of the rail infrastructure. As with other consented SRFI NSIPs, this allows for an element of warehousing to be developed first, against the background of clear requirements to bring forward the rail infrastructure as soon as possible. See the Applicant's response to ExQ3.1.1 (ii) and (iii) (REP7-004).</p>
<p>Staffordshire County Council (REP7-033)</p>	<p><u>Covering Letter</u></p> <p><i>"In the latest iteration of the DCO REP6-003 the applicant made changes to Article 12(3) to replace references to BOAT (Byway open to all traffic) to a more generic 'Public Right of Way'. This was to allow for the operation of article 12(3) whatever the outcome of the deliberations on the status of the route. However,</i></p>	<p>The Applicant can confirm that the DCO has now been amended accordingly.</p>

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	<p><i>only one of the two instances of reference to a 'BOAT' has been replaced. This has been brought to the attention of the applicant and we understand will be corrected."</i></p>	
<p>City of Wolverhampton Council (CWC) and Walsall Council (WC) (REP7-029)</p>	<p><u>Response to ExQ3.1.1</u> <i>"Failure to provide a rail connection could increase traffic flows through the Black Country, especially on the motorway network, and might make the development less attractive to investment which would in turn affect its deliverability. However, the question of whether varying the terms of the requirement to construct the rail terminal should be a matter for the Secretary of State or the local planning authority, and the potential impact of such a variation on the highway network, are matters for the Staffordshire local authorities and Highways England."</i></p>	<p>The Applicant is fully committed to the provision of the rail terminal as soon as possible. The Applicant's position in relation to an element of warehousing being constructed and occupied in advance of the completion of the rail terminal has been explained throughout the process and was most recently set out at ISH5 and at section 5 onwards of Document 16.2 of the DL6 ISH5 Post Hearing submissions (REP6-012). Please see also the Applicant's response to ExQ3.1.1 (Document 17.2, REP7-004) for further details.</p>
<p>Highways England (REP7-030)</p>	<p><u>The Applicant's final dDCO</u> <u>Rail Requirement 4 (RR4)</u></p>	

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	<p><i>"It is important to note from the outset that Highways England's sole concern in this regard relates to the potential impacts of the development on the SRN should more than 186,000 sq. m of warehousing be in use without an operational rail terminal. Highways England's interest in this application is not whether or not the rail terminal is provided but rather whether the development's impacts on the SRN are adequately mitigated. At this time the potential impacts on the SRN of not providing the rail terminal on time are unknown. The assessment provided by the Applicant (technical Note 41) at Deadline 5 was woefully inadequate and did not give Highways England any confidence that there would not be additional impacts on the SRN. If a larger quantum of warehouse floorspace is occupied that is wholly road-dependant, then this could result in significant environmental effects not assessed as part of this application. Of particular concern to Highways England are the traffic impacts on the SRN together with any noise and air quality impacts associated with the same.</i></p> <p><i>The updated draft RR4 (both the applicant's version and that of the ExA in the recent Written Questions) focuses heavily on the reasons for delay. This is of no real concern to Highways England. Of utmost</i></p>	<p>Given the Applicant's response to ExQ3.1.1 (Document 17.2, REP7-004), the Applicant considers that the points raised are no longer applicable.</p> <p>The Applicant would also highlight that its previous version of RR4 which is the subject of HE's comments (i.e. the version contained in the Applicant's dDCO submitted at Deadline 6 (Document 3.1D, REP6-003 and REP6-004), contained wording specifically requested by HE in respect of requiring HE's consent. This was explained in the DCO Changes Tracker submitted at Deadline 6 (Document 3.4C, REP6-005). Indeed, the revised wording responded to a specific request from HE in an email received on 18 July, for RR4 to be drafted in that fashion which would then satisfy HE in respect of that point. The Applicant is therefore surprised at HE's Deadline 7 submissions in this regard, there being no indication given previously that they had any additional concerns.</p> <p>The Applicant rejects the comment in relation to Technical Note 41. Following receipt of comments on Technical Note 41 from HE, it was clear to the Applicant that there was little prospect of reaching agreement with HE in relation to that note within the Examination timetable and therefore the Applicant did not pursue this.</p> <p>The note is, in any event, now redundant given the Applicant's position in relation to the rail requirement.</p>

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	<p><i>importance to Highways England, and what we would expect to see as part of any application under RR4, is the submission of updated assessments to demonstrate that any changes in this regard will not lead to additional significant effects. Whilst it is noted that Article 44 has a general provision to this effect, given the materiality of such a change it is suggested that an explicit provision should be included within RR4(2)(a) that requires the Applicant to submit an assessment to demonstrate that, should such a change be approved, there would be no additional environmental impacts. It is also suggested that RR4(2)(b) should include reference to the decision maker being satisfied, or not as the case may be, that the substitute figures /timetable would not give rise to any significant environmental effects.</i></p> <p><i>Highways England has further concerns with the drafting of this Requirement however given there is some crossover in this regard with the ExA's Written Questions our additional comments in this regard can be found below."</i></p>	
	<p><u>The Applicant's final dDCO</u></p>	

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	<p><u>Culvert</u></p> <p><i>"We strongly disagree with the assertions made by the Applicant with regards the use of the culvert beneath the A449 in their Deadline 6 submissions. This is a Highways England asset and any attempt to use this culvert without Highways England's consent will be strongly resisted and, if necessary, appropriate legal action will be taken to prevent any unlawful use. The Applicant has not put forward any alternative proposal for draining the site and we reiterate our view that if the DCO does not authorise the provision of a new private culvert by way of an amendment to Works No. 7(s) then this issue remains an impediment to the scheme being delivered."</i></p>	<p>The Applicant notes that there is no rebuttal to the Applicant's Deadline 6 Submission (Appendix 1 to Document 16.3, REP6-013) and it is not clear from the HE submission that they have even considered it. It is also noted, again, that HE do not dispute that the culvert is a shared culvert and they present no evidence of ownership. The Applicant considers that, even in the remote possibility that HE were able to substantiate their position and claim of ownership, as HE point out on page 3 of their Deadline 7 submission (REP7-030), given their statutory responsibility to support economic growth (i.e. to support developments such as this one) (paragraphs 4.2h, 4.3 and 5.25b Highways England Licence April 2015), HE is required to act reasonably and therefore cannot envisage that there would be any impediment to delivery of the development.</p> <p>Nonetheless, in the event that the Examining Authority is persuaded by Highways England that this might provide a barrier to delivery, notwithstanding the lack of evidence, then the applicant has included some (italicised) wording in the description of Works Nos 6 (u) and 7(r) in Schedule 1 of the dDCO (Document 3.1E) which could be added to provide for the construction of a new culvert.</p>

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	<p><u>The Applicant's final dDCO</u></p> <p><u>Bond & Cash Sum</u></p> <p><i>"Highways England's in-house cost estimators have reviewed the Applicant's estimate of costs for the SRN works. This exercise has identified some errors in the Applicant's estimating as well as some exclusions resulting in a discrepancy of over £3,000,000. With this in mind, accepting the Applicant's preferred bond sum of 120% presents a significant risk to Highways England which is unacceptable. We therefore reiterate our request for the bond sum to be recorded at 150%.</i></p> <p><i>In addition, a cash sum of £50,000 is not considered sufficient to fund the costs of any necessary emergency works that might be required pending call in of the full bond. This would therefore place an additional burden on Highways England as Highways England holds no budget for such costs. We therefore reiterate our request that the Applicant should pay a £150,000 cash sum in addition to providing a 150% bond."</i></p>	<p>The Applicant considers that the "errors" mentioned in HE's submission are not "errors" – they are points of disagreement as to what items should be included within the assumptions. The Applicant's view is that the discrepancy is most likely due to differences in the assumptions and not the estimations.</p> <p>The Applicant is disadvantaged because HE has not been able to provide the Applicant with any policy (written or otherwise) explaining the basis for the amount of Bond Sum and Cash Surety. The Applicant therefore is able only to look at the most recent precedent to assess what might be considered reasonable. The Applicant is therefore willing to agree to a Bond Sum of 120% including all costs and the Commuted Sum and a Cash Surety of £150,000. These figures were agreed between HE and the applicant for the Northampton Gateway DCO and the Applicant believes that the works on the SRN in the Northampton Gateway scheme could be considered to be more significant than the highway works on the SRN for WMI. The Applicant therefore considers these to be more than reasonable and has amended the</p>

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	<p><u>The Applicant's final dDCO</u></p> <p><u>Amendments to existing TROs to prohibit verge parking</u></p> <p><i>"Whilst we welcome the changes made to the dDCO to include the amendment to existing TROs to prohibit verge parking we do not believe that the changes go far enough. We reiterate our previous submissions on the safety need for these prohibitions given the development will increase the number of vehicles, particularly HGVs, in the area and the known pressures on roadside facilities.</i></p> <p><i>Highways England has identified possible locations for verge parking on the A5 between Gailey Roundabout and the junction with Vicarage Road and on the A449 between Gailey Roundabout and the M54. We have therefore asked the Applicant to update their proposals in this regard. Without such an amendment there is an increased likelihood that the development will result in increased safety risks on these parts of the SRN due</i></p>	<p>protective provisions in Part 2 of Schedule 13 to the dDCO in the dDCO submitted for Deadline 8 (Document 3.1E).</p> <p>The Applicant is surprised at HE's Deadline 7 submission and would remind HE and the ExA that the amendments to the TROs made in the version of the dDCO which is the subject of HE's comments were made following HE's request at ISH4.</p> <p>As mentioned in the Applicant's Deadline 7 Submission (Document 17.1, REP7-003 (see response to 17.1.002 on page 4)), having made the requested amendments, the Applicant then received another request to extend the amendments to the TROs even further and the Applicant has also made those amendments. The updated TRO plans were submitted at Deadline 7 (Document series 2.11, REP7-007-REP7-011) and the Applicant confirmed that the amended references to the relevant drawing numbers would be made to the final dDCO to be submitted at Deadline 8. The Applicant has made those amendments to the dDCO (see Document 3.1E submitted at Deadline 8).</p>

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	<p><i>to indiscriminate parking. The HGV Management Plan would also be undermined from the outset. This is not considered to be a significant change but not doing so could have significant implications. To facilitate this request there would need to be slight change to the Traffic Regulation Plans with 'BB' being relocated east of the M6 roundabout to the junction with Vicarage Road and 'DD' relocated south down the A449 all the way to the junction with the M54."</i></p>	
	<p><u>The Applicant's final dDCO</u></p> <p><u>Deemed Consent</u></p> <p><i>"The dDCO still seeks to make Highways England the subject of deemed consent. We reiterate the significant safety concerns that this raises which is completely unacceptable to Highways England. Highways England has a statutory duty to protect and improve the safety of the SRN and therefore no work should be carried out on the SRN without Highways England's approval. The development necessitates physical works to two trunk roads and by seeking to bypass the usual approvals processes there is an unacceptable risk that Highways England will be in breach of its</i></p>	<p>The ExA is aware of the Applicant's position on Deemed Consent (see Appendix 3 to the Applicant's Responses to Other Parties' Deadline 2 Submissions (Document 11.1, REP3-007)). Notwithstanding, in the event that the ExA or the Secretary of State were minded to disagree with the Applicant's position, the Applicant has included some alternative drafting in Articles 11,13,17,21 and 22 (in italics) in its final dDCO submitted at Deadline 8 (Document 3.1E). This responds to HE acceptance, as an alternative, of an obligation not to unreasonably withhold or delay consent. As explained in the DCO Tracker (Document 3.4D),</p>

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	<p><i>statutory duty and become responsible for substandard works and the liability that comes with that.</i></p> <p><i>Highways England appreciates that the Applicant's rationale for seeking deemed consent provisions is to ensure appropriate engagement from Highways England. It ought to be recognised however that Highways England has statutory responsibilities to support economic growth (i.e. to support developments such as this one) and as a public body must act reasonably. It should not therefore be necessary for Highways England to be made subject to deemed consent provisions to ensure its engagement and a public body should not be forced into a position against its will where public safety is potentially compromised. Highways England has recently reached agreement with the applicant for the Reinforcement to North Shropshire Electricity Distribution Network DCO for the removal of such provisions from their draft DCO. As a compromise, and despite it being considered unnecessary due its the statutory obligations, Highways England would not object to a provision that it must not unreasonably withhold or delay consent (in line with the Secretary of State's decision for the North London Heat and Power Generating Station DCO)."</i></p>	<p>if the ExA or the Secretary of State agree with the Applicant then the words in italics should be excluded.</p>

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	<p><u>Further Written Questions (ExQ3.1.1 and ExQ3.3.12)</u></p> <p><i>See Highways England Deadline 7 Submission (REP7-030).</i></p>	<p>The Applicant believes that its responses above, and those already made to ExQ3.1.1 and ExQ3.1.2 (Document 17.2, REP7-004), deal appropriately with the points raised.</p>
<p>Public Health England (REP7-031)</p>	<p><i>“PHE chose not to register an interest with the Planning Inspectorate in our response of 23rd October 2018 during the Registration of Interest stage of the consultation for this project. However, we note that Section 3.2.1 on the Air Quality Assessment states “With the exception of Receptor 7a, there appears to have been no reassessment of the modelling results for receptor locations in Walsall and Wolverhampton, both of which include Air Quality Management Areas. Given the degree of variation between the original and revised modelled results for receptors in South Staffordshire, the ExA considers it necessary that a full revision of ES Chapter 7, with revised results for all receptor locations, is submitted to the examination”. We consider that a full revision of the Environmental Statement (ES) Air Quality Chapter is a substantive change and therefore represents the potential for significant change in public health outcomes,</i></p>	<p>The Applicant has liaised with Public Health England and directed them towards the updated Air Quality ES Chapter (Document 6.2, REP7-014) and associated appendices.</p> <p>Public Health England has responded to the applicant to confirm that they have no further comments. A copy of this correspondence is provided at Appendix 1.</p>

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	<p><i>especially in existing Air Quality Management Areas. We therefore request the opportunity to review any revised information submitted by the applicant at Deadline 7 in response to Question 3.2.1."</i></p>	
Other Bodies		
<p>Greenforge Sailing Club (REP7-035) (REP7-066)</p>	<p><u>Response to ExA's Further Questions</u> Comments have been provided by individual members of Greensforge Sailing Club.</p>	<p>A separate note responding to comments submitted by Greensforge Sailing Club (GSC) is provided at Appendix 2.</p> <p>This Appendix also contains a 'travelling draft' SoCG with GSC at Annex 1. The Applicant is continuing to work with GSC and will aim to submit a signed SoCG ahead of the close of Examination, if the parties are able to provide a signed SoCG that it is felt will assist the Examination.</p>
<p>Shareshill Parish Council (REP7-039)</p>	<p><u>Deadline 7 Submission from Cllr Bob Cope Shareshill Parish Council</u> <i>"The Inspector will recall that he visited the land behind Shareshill Church and was directed to view the landscape from two specific viewpoints towards the Waste Incinerator and the recently constructed Gestamp buildings in order to assess the visual impact</i></p>	<p>The site was visited with Natural England and officers of both the County and District Council's on 10 August 2016. The officers at the meeting and site visit were Steve Dores (Arboricultural Officer) from the District Council and Julia Banbury (Landscape Officer)</p>

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	<p><i>of the proposed WMI, however we are disappointed with the applicants response stating that at the design and assessment stage the site was visited by the applicant together with Natural England and officers from both the County and District Councils having made enquires with the District Council no officer from their organisation has visited the site with the applicant, and we also believe from the applicants statement that they have taken their observations from within the Churchyard expressing that the trees will mitigate the effect on the landscape from their proposed developments, if indeed a visit was paid to the Churchyard by the above why was a photomontage not produced in order to evidence the exact location viewpoint.</i></p> <p><i>At the enquiry I suggested that the huge massive scale development would rise above the horizon when viewed from the two mapped viewpoints and this was refuted by the applicant, I am still of this view and that the development will encroach into the countryside, affect the openness of the green belt thus urbanising the views when seen from the directed viewpoints submitted by the Parish Council and the collective."</i></p>	<p>from the County Council, together with Antony Muller from Natural England.</p> <p>Subsequently, the same officers were consulted in relation to the position of photo viewpoints and photomontages. An additional photomontage was added (Viewpoint 23 as shown on ES Figure 12.7; APP-039, Doc 6.2) at the request of the District Council Officer (Steve Dores) from Claygates Rd to the west of the site. No other additional photomontages or photo viewpoint locations were requested.</p> <p>Shareshill, the Churchyard and the public rights of way leading into and out of Shareshill on its northern side were visited by the Applicant's landscape consultants on a number of occasions during the design and assessment process.</p> <p>The landscape and visual impact assessment assesses the visual effect of the proposed development upon receptors at Shareshill, including the viewpoint position (No. 34) (users of the public rights of way) in Chapter 12 (Doc 6.2, APP-040) and at ES Appendix 12.6; Receptor P5 (Doc 6.2, APP-104).</p> <p>The Applicant's original response refers to the nature of the visual effects from both the northern side of Shareshill (see Viewpoint 34; Figure 12.8; ES Chapter 12; Doc 6.2, APP-040) and in relative terms from the churchyard. It confirms that any available views</p>

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		<p>from the churchyard will be restricted by existing trees and hedgerows immediately around the church.</p> <p>The assessment does take into account that the proposed development will extend the existing urbanising elements and influences already present within these views. This forms part of the magnitude of change judgement in the visual impact assessment. The visual impact assessment also assesses the visual effect upon the views in winter upon full completion of the proposed development. This represents the worst case scenario.</p>
<p>The Collective of Parish Councils (REP7-044)</p>	<p><u>Post Hearing Submissions (20015248) – Scale: Compelling Need and VSC</u></p> <p><i>“The applicant asserts at Item 2.1(a) that one of the most striking gaps in the national network is the 120km gap between the SRFI at Birch Coppice/Hams Hall and Widnes/Port Salford. The applicant has not taken into account db symmetry’s proposals which are coming forward for the Hinckley National Rail Freight Interchange (HNRFI) at junction 2 of the M69. This scheme is considered to be a Nationally Significant Infrastructure Project (NSIP). It should be noted that this proposal is located within 5 miles of Nuneaton which is in the West Midlands. On this basis the</i></p>	<p>HNRFI, or Hinckley, is a new strategic rail freight interchange on land east of Hinckley, in Blaby District in Leicestershire being promoted by ‘db symmetry’. It is not yet the subject of a DCO application.</p> <p>Hinckley is not in the 120km gap between Birch Coppice/Hams Hall and Widnes/Port Salford identified by the Applicant (paragraph 5.5.5 of the Planning Statement, APP-252) and referenced in the response from the Collective of Parish Councils (REP7-044).</p>

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	<p><i>Hinckley proposal is perfectly positioned to absorb a percentage of the capacity deemed to be essential at Four Ashes to service the Arc of the West Midlands. Accordingly, the scale of the West Midlands Interchange could be decreased."</i></p> <p><i>"Paragraph 2.1(c) goes on to say that this need was not disputed by Planning Authorities. This statement is very misleading in that South Staffordshire Council did not dispute that there was a need for a Rail Freight Interchange in Southern Staffordshire(encompassing a specific area of 60 hectares) it very much disputed the need for a Strategic Rail Freight Interchange in South Staffordshire. For the purposes of this exercise South Staffordshire District Council is the only relevant Planning Authority. There is a vast disparity between a 60 hectare Rail Freight Interchange and a 250 hectare Strategic Rail Freight Interchange."</i></p> <p><i>"Paragraph 2.1(c) also goes on to say that no other site has come forward that could meet this need. The Collective would again refer you to the db symmetry proposal for Hinckley."</i></p> <p><i>"Paragraph 2.1(d) again refers to a matter of evidence and agreement with SSDC that there are no alternative</i></p>	<p>The proposed SRFI at Hinckley is located over 30km outside of the Alternative Sites Assessment (ASA) search area (Figure 5 of the ASA, APP-255) and, as set out at paragraph 4.1.19 of the ASA, sites which are located beyond the search area are not considered to be suitable alternatives as they would serve a different catchment area and would not meet the demands of the Wolverhampton/ Birmingham conurbation or the needs of the distribution industry in the Black Country and southern Staffordshire.</p> <p>The proposed SRFI at Hinckley is also located outside of the WMI Market Area. This is established in the WMI Market Assessment (APP-257) and is larger than the ASA search area.</p> <p>The WMI Market Area is made up of the land within the Local Enterprise Partnership (LEP) areas which could compete with, or act as alternatives, for occupiers who may be seeking floorspace at WMI. The WMI Market Area comprises the Stoke and Staffordshire LEP area, the Black Country LEP area and the Greater Birmingham & Solihull LEP area. The SRFI at Hinckley would be located in the Leicester and Leicestershire LEP and therefore would not be relevant to the same occupiers.</p> <p>The NPS is clear as a matter of national policy that there is a compelling need for the establishment of a network of SRFIs and it is considered that a SRFI at Hinckley could form part of this</p>

Body / Individual (Reference)	Comment	Applicant's Response
	<p><i>sites on which the need could be met. In the pursuit of the accuracy and fairness in which terms the applicant's approach to the Alternative Sites Assessment has been described, it must surely now include the proposal for (HNRFI); which will have the capacity to serve what constitutes the market area within the arc of the West Midlands. This location is already in a designated growth area and has the capability to provide exactly the same benefits as that of the Four Ashes site without a very significant loss of much valued Green Belt. The WMI proposal directly conflicts with the purpose of safeguarding countryside from encroachment and should be resisted particularly when the very special circumstances being relied upon are flawed."</i></p> <p><i>"The Collective feels strongly that there is significant relevance to this question when such a massive loss of Green Belt is at stake; the Collective will continue to dispute the assertion that alternatives have been properly explored should the applicant continue to disregard the existence of the HNFRI and close its eyes to its potential status."</i></p>	<p>network in the future. However, the proposed SRFI at Hinckley is at a very early stage and it is unknown when, or if, it would come forward. Furthermore, the Hinckley SRFI site is a significant distance from WMI, and the facility would serve a different catchment area and would not meet the accepted need for a SRFI in the vicinity of WMI. It could not meet the NPS requirement requiring SRFIs to be near to the conurbations that consume the goods (paragraph 2.45) and near the business markets they will serve (paragraph 2.56).</p> <p>A second round of informal consultation is currently being undertaken for HNRFI (08 July 2019 – 06 September 2019), with a first round of informal round of consultation having taken place between October and December 2018. The latest information on the promoter's website anticipates that statutory consultation will be undertaken in November and December 2019, with submission of a DCO application anticipated in Q2 2020.</p> <p>Given the early stage of the Hinckley SRFI and the distance from the market which WMI intends to serve, the proposals at Hinckley could not be relied upon to meet the identified need.</p>

Body / Individual (Reference)	Comment	Applicant's Response
<p>The Collective of Parish Councils (REP7-044)</p>	<p><u>Post Hearing Submissions (20015248) – Question of Scale</u></p> <p><i>“Paragraph 3.1 bullet point 2 states that the scale of the proposed SRFI is comparable to the scale of other SRFI developments in other parts of the country. The developments referred to can only be the Northampton Gateway SRFI which sits on a 202 hectare site and the Doncaster Iport which sits on a 136 hectare site. There is clearly no real comparison linking the WMI proposal to the existing Northampton Gateway and Doncaster Iport as they are both well under 250 hectares. This begs the question if both the Northampton Gateway SRFI and the Doncaster Iport SRFI are viable at well under 250 hectares why is the proposal for Four Ashes stated to be unviable?”</i></p>	<p>The figures provided by the Collective of Parish Councils are incorrect, with both iPort and Northampton Gateway on larger sites than identified by the Collective.</p> <p>The iPort application site is 397.4 ha (see Section 4 of SRFI Consents in the Green Belt, Appendix 7 of REP5-004).</p> <p>The Northampton Gateway main site is 219.6 ha (see Current SRFI Proposals, Appendix 5 of REP5-004). However, as noted in the Northampton Gateway Planning Statement (APP-376 of the Northampton Gateway Examination), the total area covered by the Order Limits is 290.5 ha.</p>
<p>The Collective of Parish Councils (REP7-044)</p>	<p><u>Post Hearing Submissions (20015248) – Detrimental Effect on Surrounding Landscape</u></p> <p><i>“The applicant states that the consideration and assessment of the landscape and visual effects of the proposed development has been robustly and comprehensively undertaken, in accordance with the relevant guidelines and best practice. The applicant</i></p>	<p>Please see the above response to Shareshill Parish Council (Applicant's response to REP7-039).</p>

Body / Individual (Reference)	Comment	Applicant's Response
	<p><i>also states that during the design and assessment stage of work, Shareshill was visited by the Applicant together with Officers from the County and District Councils and Natural England. This statement is not entirely accurate; no Officer from South Staffordshire Council (the relevant LPA) has attended such a visit."</i></p>	
<p>The Collective of Parish Councils (REP7-044)</p>	<p><u>Post Hearing Submissions (20015248) – Detrimental Effect on Surrounding Landscape</u></p> <p><i>"The Collective has also identified that there appears to be some confusion regarding the viewing point utilised by the Applicant. The Inspector viewed the site from a specific location, as requested by The Collective, yet the applicant appears to be commenting on what can only be the view from within Shareshill Churchyard itself."</i></p>	<p>The Applicant's understands the Collective are referring to 08 CPC 007 of the Applicant's Responses to Other Parties Deadline 4 Submissions (REP5-006). This response refers to the nature of the visual effects from both the northern side of Shareshill (see Viewpoint 34; Figure 12.8; ES Chapter 12; Doc 6.2) and in relative terms from the churchyard. It confirms that any available views from the churchyard will be restricted by existing trees and hedgerows immediately around the church.</p> <p>The visual effect of the proposed development upon users of the public right of way that includes Viewpoint 34 is detailed at Receptor P5; ES Appendix 12.6; Doc 6.2).</p>

Body / Individual (Reference)	Comment	Applicant's Response
		It should also be noted that all of the photoviewpoints and photo montage locations were agreed with officers of SSDC, SCC and Natural England. Further details on this are provided at REP7-039 above. The SOCG between the Applicant and SCC (REP2-007) confirms the agreement of the viewpoints.
<p>The Collective of Parish Councils (REP7-044)</p>	<p><u>Post Hearing Submissions (20015248) – Ecology</u> The Collective of Parish Council's presented bird survey data, with a number of queries relating to the provision of mitigation areas (see p.9 onwards of REP7-044).</p>	A separate note responding to the query regarding wildlife mitigation areas and bird survey data as submitted by the Collective of Parish Councils is provided at Appendix 3 .
<p>The Collective of Parish Councils (REP7-044)</p>	<p><u>Post Hearing Submissions (20015248) – Conclusion</u> <i>"In conclusion The Collective of Parish Councils would ask the Inspector to refer to the decision of the Ministry of Housing and Local Government to dismiss the Appeal by Roxhill Developments Limited relating to land adjacent to the South Eastern Train Depot, Moat Lane, Slade Green, Erith (Appeal reference APP/D5120/W/173184205 and</i></p>	It is not possible or appropriate to compare the site and proposals at Slade Green with the WMI proposals in respect of detailed technical matters which are dependent upon the unique circumstances of each site. The conclusions in respect of the Slade Green site are specific to the circumstances relating to the M25 and J1A and do not apply to WMI.

Body / Individual (Reference)	Comment	Applicant's Response
	<p><i>APP/T2215/W/173184206) which cites as one of its main reasons for refusal at item 15.4.45 the following:-</i></p> <p><i>Extract from decision letter dated 9th May, 2019</i></p> <p><i>15.5.45. The area around the M25 junction 1A and Dartford is subject to frequent incidents, primarily associated with incidents on or around the M25 and Dartford Tunnels, which can result in severe traffic conditions. Whilst there is no technical validity in modelling assessments of such incidents, it is appropriate to consider the implications qualitatively. I share the view of KCC that the scheme would inevitably exacerbate existing periods of delay and congestion on the approach to the existing river crossing (particularly the north-bound tunnels) and specifically at local A282/M25 junction 1A and nearby local roads during 'incidents'. I consider that it would have a material adverse impact, adding to severe conditions.</i></p> <p><i>Clearly, a precedent has already been set with regard to this particular set of circumstances and The Collective of Parish Councils is of the view that this</i></p>	<p>As set out in the Statement of Common Ground (REP2-008), agreed with Highways England, there is no policy requirement to assess the impact of the development on the area if there is a closure of the M6.</p> <p>HE and SCC set out their position concerning an assessment of highway conditions with Proposed Development during the infrequent event of M6 closures within their responses to ExQ1.7.6 (REP2-036 and REP2-063).</p> <p>All traffic impact from WMI has been agreed with both HE and SCC, as set out in the respective Statements of Common Ground (HE REP2-008 and SCC REP2-007), and there are no outstanding concerns from these highway authorities over the operation of the highway network during incidents or abnormal highway operation.</p>

Body / Individual (Reference)	Comment	Applicant's Response
	<p><i>issue deserves to be attributed a significant amount of weight in determination of this application.”</i></p>	
<p>Stop the West Midlands Interchange (REP7-041)</p>	<p><u>Response to Examining Authority's 3rd Written Questions</u></p> <p><i>“The Group’s position is that that decision was not sound on the issue of allowing warehousing to be built in advance of the rail connection and that the only lawful way in which that could be allowed is if it were justified properly on viability grounds supported by the quality of evidence normally required for enabling development. Moreover, any case advanced on that basis would need to secure the fruits of the enabling development so that they were available for the investment in the rail connection. In this case we do not have a proper viability assessment and the attempts made by the Group to propose a basis for securing the fruits of the warehouse development by means of a Trust Deed have been rejected out of hand. For the record as submitted in our July post Hearing representations it is considered that the Trust Deed is policy compliant. The concept of allowing 25% of total warehousing without any rail connection in place is totally unjustified [...]”</i></p>	<p>As set out in the Applicant's response to Stop the West Midlands Interchange at Deadline 7 (see 17.1.010 of the Applicant's Responses to Other Parties Deadline 6 Submissions, REP7-004), the Applicant gave full consideration to the Stop the WMI Group's proposal in relation to the Trust Deed. However, as previously explained to the Group's solicitor, the Applicant has not engaged in the detailed wording of the Trust Deed because it is, in concept, fundamentally flawed.</p> <p>The reasons set out in the Applicant's Post Hearing Submissions (ISH5) (Document 16.2, REP6-012) at paragraph 5.13 and Appendix 4. It is not a deed that the Applicant would be prepared to enter into and therefore it was felt that it would be a wasteful use of both parties' resources to engage in its detailed drafting. This remains the case.</p>

Body / Individual (Reference)	Comment	Applicant's Response
<p>Stop the West Midlands Interchange (REP7-040)</p>	<p><u>Response to ExQ2 Deadline 7 (16.1.015)</u></p> <p><i>“The very fact that hedgerows are being removed and re-planted will create disturbances for hedgerow species – mitigation measures will eventually be appropriate but how long before the mitigation measures reach their full effectiveness?</i></p> <p><i>Until this goal is fully-achieved (which is likely to take some time), the habitat will be less suitable in terms of extent and therefore carrying capacity, and this is likely to adversely impact hedgerow fauna at least temporarily (and even temporary adverse effects can result in permanent removal of species).”</i></p>	<p>Paragraph 10.231 of the ES, Chapter 10 (Document 6.2, APP-030) acknowledges that a temporary effect is anticipated while vegetation matures and establishes, however, this is not considered to be significant at the Local scale. As detailed in paragraph 10.227 of the ES (Document 6.2, APP-030), this takes account of the phased approach, whereby habitats created (including hedgerows) as part of the first phases would be established or maturing prior to subsequent habitat loss associated with the subsequent phase(s).</p> <p>The Framework Ecological Mitigation and Management Plan (FEMMP, Document 6.2, ES Technical Appendix 10.4, REP5-033) outlines measures for protection and translocation of retained hedgerows and planting of new hedgerows (sections 3.3 and 3.5). The FEMMP has been agreed with SCC (paragraph 3.2, Addendum to the Statement of Common Ground, REP5-039). The FEMMP is secured via Requirement 11 of the DCO (Document 3.1E).</p>
<p>Stop the West Midlands Interchange</p>	<p><u>Response to ExQ2 Deadline 7 (16.1.016)</u></p>	

Body / Individual (Reference)	Comment	Applicant's Response
(REP7-040)	<p><i>"The overall mitigation measures sound favourable but there is a loss of the total area of Calf Heath Wood and, although its links with nearby habitats are a positive factor, the reduction of the extent of the wood will compromise its suitability as a habitat for certain species that thrive without exposure to human disturbance.</i></p> <p><i>The fact that the wood is now going to occupy a smaller area near to human activities will decrease its overall importance as a wildlife habitat."</i></p>	<p>The ES Chapter 10 (Document 6.2, APP-030) acknowledges in paragraph 10.334 that the development would affect the composition of bird species that the Site can support. However, a greater range of habitats would be present in the operational phase, notably more diverse, species rich grassland and despite the reduction in size of Calf Heath Wood, woodland would be more evenly distributed across the Site. There would be substantially more open water which would be of benefit to a range of bird species. The Proposed Development includes wet attenuation ponds (as illustrated in the Green Infrastructure Parameters Plan, REP5-019). Furthermore, <i>"in addition to ponds provided as compensation, a minimum of 10 waterbodies will be provided as enhancement whereby the primary aim is to increase biodiversity..."</i> (paragraph 3.5.1, FEMMP, Document 6.2, ES Technical Appendix 10.4, REP5-033).</p> <p>Some species of conservation concern such as starling and house sparrow are likely to benefit from the new nesting and foraging opportunities presented. It should be noted that Calf Heath Wood is not currently free from disturbance, with pheasant rearing and pheasant shoots taking place.</p> <p>Measures are detailed in the FEMMP (Document 6.2, ES Technical Appendix 10.4 (REP5-033) which is secured via Requirement 11 of the DCO (Document 3.1E)) to protect Calf Heath Wood in the operational phase. These include measures to</p>

Body / Individual (Reference)	Comment	Applicant's Response
		<p>ensure there would be no unauthorised access and development parcels would be fenced to prevent access into green infrastructure where this is not intended. Fences will be maintained for the duration of the operational phase. Calf Heath Wood would be managed for biodiversity. In addition, a screen of native shrubs will be planted along the new boundary of the wood exposed by site clearance to screen the retained woodland.</p>
<p>Stop the West Midlands Interchange (REP7-040)</p>	<p><u>Response to ExQ2 Deadline 7 (16.1.017)</u></p> <p><i>“The mitigation measures seem suitable on one side of the development, but links to the other reservoirs, particularly, seem to have been ignored.</i></p> <p><i>Birds and bats commute across existing barriers, although this is not an ideal scenario. Surely increased traffic volume and levels of disturbance will add to the obstructions already created by these barriers?”</i></p>	<p>If by ‘other reservoirs’ this refers to Gailey Upper and Lower Reservoirs the Applicant considers that the habitat linkages provided within the ecological corridor (between Calf Heath Wood and Calf Heath Reservoir as illustrated in the Green Infrastructure Parameters Plan, REP5-019) serve to provide additional habitat linkage to these reservoirs as well. The intervening land is severed by the A5 and M6 and is outside of the Applicant’s control. The proposed ecological corridor links with the off-site Watling Street Plantation to the north-east of the Site and to the south-west of the Gailey Reservoirs.</p> <p>However, if ‘other reservoirs’ is actually referring to Belvide reservoir, the next nearest reservoir from the Gailey reservoirs which is located approximately 4.5 km west of the Site, it isn’t</p>

Body / Individual (Reference)	Comment	Applicant's Response
		<p>considered feasible or necessary for the Applicant to create ecological links to this reservoir due to the distance involved.</p> <p>Collision risk for bats is assessed within the ES Chapter 10 (Document 6.2, APP-030) in paragraphs 10.372 and 10.373. Noise impacts on bats are assessed in paragraphs 10.368 to 10.371 in ES Chapter 10 (Document 6.2, APP-030).</p> <p>Birds recorded on-site are not considered likely to be restricted to the Site and interchange between on-site and off-site habitats was frequently observed. Disturbance effects on birds in the operational phase is discussed in paragraphs 10.340 to 10.342 of the ES Chapter 10 (Document 6.2, APP-030).</p> <p>To mitigate for potential barrier effects on bats 'hopovers' are proposed for both new and existing roads (five 'hopovers' in total), as outlined in the Green Infrastructure Parameters Plan (REP5-019 – REP5-023) and secured by Article 4 of the DCO (Document 3.1E).</p>
PILs		
Anthony Powell (on behalf of Antonia Murphy, Jean Ann	<i>"Heads of Terms have only recently been agreed and they are in a fairly simple form which may still be open to some interpretation. We have not yet seen any draft documentation and understand that our solicitor has</i>	The legal agreements are being drafted. Clearly it is in both parties' interests to pursue the voluntary agreement.

Body / Individual (Reference)	Comment	Applicant's Response
Lea-Jones and James Powell) (REP7-102)	<i>not yet been contacted by the Applicant's solicitor. We remain concerned that the formal documentation accurately reflects our requirements and our understanding of what has been agreed. Until the formal agreement has been completed we remain objectors to the potential compulsory purchase of our land and our original objections still stand."</i>	<p>An offer was put to the Powell's on 25 June 2019 and the Applicant received confirmation of acceptance of the terms on 26 July 2019.</p> <p>At the time of DL7 the Applicant's solicitors were in discussions with the Powell family's solicitors.</p>
Inglewood Investment Company Limited (REP7-036)	<p>The email submission of the withdrawal of Inglewood's objection to the DCO including the compulsory acquisition powers contains an exchange regarding the inclusion of Staffordshire Sand and Gravel rights in column (6) and Part 3 of the Book of Reference.</p>	<p>The Applicant would like to clarify that these interests are included in the Book of Reference because upon a detailed review of the title information, it is not explicitly clear which land the rights relate to and there is some potential that they do relate to Inglewood land. The Applicant therefore considers it prudent to retain the interest in the Book of Reference.</p>
Jamie Wilkes (REP7-121)	<p><i>"Dear Mr Singleton, In response to question 3.8.3 I would like to inform yourself that my parents Mr & Mrs Wilkes of Straight Mile Farm, Calf Heath are no longer in agreement with the offer proposed by FAL in regards to the CA of their property as set out in deadline 6. They both wish to maintain an objection for the reasons given in deadline 6 responses. We have, as a family written to Mr Peter Frost to inform FAL of the rejection of the offer discussed previously especially as the rail hub is not projected to be built for another 6 years of</i></p>	<p>The Applicant acknowledges the representations from Mr Jamie Wilkes on behalf of his parents. The Applicant set out the purpose for which land/rights are required in respect of parcel 117 in the Statement of Reasons. In respect of parcel 117 the Applicant had included Straight Mile Farm residence and the provision of the garden area in Works No.11 on the understanding that this was what Mr & Mrs Wilkes wanted as part of the voluntary agreement that has been in negotiations since June 2016, on the basis of the deferred terms described to the Examination. The latest</p>

Body / Individual (Reference)	Comment	Applicant's Response
	<p><i>income received from rent for the warehouses. This appears to be a direct action to get around protection of the greenbelt planning restrictions and not in demand for a rail hub as first described. Kind regards, Mr Jamie Wilkes."</i></p>	<p>representation from Mr Jamie Wilkes makes clear that his parents are "no longer" in agreement with the offer proposed by FAL.</p> <p>As set out at Deadline 7 In response to the ExA's Third Written Questions (ExQ3.3.3) and in Document 15.2, Appendix 2 (REP5-006) the Applicant has proceeded in good faith in every expectation that a voluntary agreement would be concluded with the appointed representatives of Mr & Mrs Wilkes. Such agreement would respond to the specific needs of Mr & Mrs Wilkes and would, if concluded, prevail over any CPO powers if granted.</p> <p>The Applicant has confirmed (in REP5-006) that there is no intention to demolish the Straight Mile Farm residence, even in the long term. Indeed, the intention of Works No.11 was to ensure its retention and to create a formal curtilage. In view of the change in circumstances in respect of the voluntary agreement the Applicant has reviewed the Compulsory Acquisition rights and now proposes to exclude the Straight Mile Farm residence from parcel 117 and to remove Works No.11 from the "authorised development". The Book of Reference (Document 4.3B), Land Plans (Documents 2.1 and 2.1D), Statement of Reasons (Document 4.1C), and Works Plans (Document series 2.2) have been updated to reflect this, and are submitted at Deadline 8. The Compulsory Acquisition Status Report submitted at Deadline 8 (Document 18.2) also reflects this amendment.</p>

Body / Individual (Reference)	Comment	Applicant's Response
		<p>It is not necessary to amend the Parameter Plans since the exclusion of the residence from the authorised works is not still consistent with what is shown on those plans.</p> <p>The Applicant confirms that the remainder of the land in parcel 117 is still required for the following purposes as set out in the Statement of Reasons (Document 4.1C):</p> <p><i>Rail served warehousing (including ancillary offices and other buildings) including (but not limited to) service yards and vehicle/cycle parking, rail infrastructure to facilitate rail connected warehousing, vehicle maintenance units and charging facilities, container storage, on plot landscaping and bunding, signage (Works No. 3) (Zone A7b), structural landscaping and earthworks including the creation of screening bunds, retention of existing trees and woodland, attenuation ponds, boundary treatments, habitat creation and Calf Heath Community Park (Works No. 6), southern pylon works (Works No. 9b)”</i></p> <p>The Applicant can confirm Straight Mile Farm has been considered a long-term receptor in the ES (Document 6.2). See for example, Tables 13A.17, 13A.18 and 13A.19 and paragraph 13A.97 of the noise chapter ES addendum (Document 6.2, REP2-014) where this receptor is considered. There are therefore no likely significant environmental effects as a result of the exclusion of, what were, Works No. 11 which have not already been assessed in the Environmental Statement.</p>

Body / Individual (Reference)	Comment	Applicant's Response
MPs		
<p>Gavin Williamson (REP7-123)</p>	<p><u>Request for Further Information</u></p> <p><i>“Reference is made to Air Quality Management Areas in Walsall and Wolverhampton Council areas. It is my understanding that Air Quality Management Areas, also exist on the A5, both within South Staffordshire Council and Cannock Chase Council, up to the Walsall Council boundary. No reference has been made to these Staffordshire Air Quality Management Areas. As the A5 road is a key corridor for HGV traffic, particularly via the A5/M6T/A34/A460 Churchbridge junction, part of which lies within my constituency, there is a case for a comprehensive assessment of air quality on the A5 corridor. The proposed development could lead to a substantial increase in HGV traffic. I understand that only 40% of containers would be moved to/from the site by rail, with the remaining 60% being solely by road, thereby constituting additional HGV traffic that could have an adverse impact on air quality on the A5 and the A449, in addition to the legitimate concerns on additional vehicle movements.”</i></p>	<p>The Applicant accepts that the proposals will lead to a local increase in traffic and have thoroughly assessed the local highway network to confirm it can accommodate this traffic and where necessary, have proposed improvements. This local increase in traffic has also been assessed as part of the air quality assessment and results are set out in the relevant ES chapter (Document 6.2, REP7-014).</p> <p>As noted above, Public Health England have responded to the Applicant to confirm that they have no further comments with regards to the updated Air Quality ES Chapter (Document 6.2, REP7-014) and associated appendices. A copy of this correspondence is provided at Appendix 1.</p> <p>SSDC has confirmed agreement to the findings of the Air Quality Assessment (paragraphs 15.5 – 15.19, Statement of Common Ground, REP2-050).</p>

Body / Individual (Reference)	Comment	Applicant's Response
<p>Gavin Williamson (REP7-123)</p>	<p><u>Request for Further Information</u></p> <p><i>"I note that Stop WMI Group made reference to alternatives sites. In June, I attended a meeting of the Chase Line Stakeholder Group, in which reference was made to the Pentalver, Mid Cannock road/rail freight interchange proposal. While this is not of a scale to be a SRFI, it would provide an alternative road/rail interchange facility that to serve the same area, that already has planning permission and which not lead to the proposed massive and inappropriate development in the Green Belt at Four Ashes.</i></p> <p><i>The Mid Cannock site is located at a more strategic location of the Churchbridge M6T/A5/A34/A460 interchange and would be able to handle up to 6 container trains a day."</i></p>	<p>As noted, the proposed RFI at Cannock would not offer a site large enough to be an SRFI. The NPS, in determining the compelling need for SRFI, discounts the alternative option of reliance on a larger number of smaller RFI (page 23 Table 24).</p> <p>Pentalver RFI at Mid Cannock is a rail freight interchange without the potential or presence of warehousing, given the absence of any land there for development (see Site 2 of Appendix 4 of the ASA, APP-255 and paragraph 4.4 of the Applicant's Post Hearing Submissions (ISH5), REP6-012).</p> <p>Although the location of Mid Cannock could be considered to be at a strategic location for the road network – the Applicant considers the WMI site to be superior in terms of its connectivity to both the national road and rail networks.</p> <p>The Proposed Development is also designed to handle up to 10 full length 775m trains per day, without the need for splitting (see footnote 38 of the Planning Statement, APP-252). This is superior to the handling capacity of Mid Cannock, which would allow up to six trains a day, with longer trains requiring splitting and shunting (see Planning Supporting Statement, Ref: CH/14/0452 (Cannock Chase Council)).</p>

As noted on the Covering Page, other 'Third Party' representations are generally summarised and responded to, based on common themes raised, however, where appropriate, the Applicant has responded individually to other 'Third Party' representations.

Topic / Individual	Comment (Reference)	Applicant's Response
Other 'Third Party' representations		
Environmental	<p>Comment querying whether the houses qualifying for insulation may need to be reviewed if there were underestimations in air quality and noise assessments.</p>	<p>The bespoke noise insulation scheme (as included in Document 7.7F, REP5-031) only relates to potential noise emissions. The air quality assessment has outlined proposed mitigation when taking assessment findings into consideration (paragraphs 7.216 to 7.219, Document 6.2, ES Chapter 7, REP7-016) and no specific mitigation measures are considered necessary at individual dwellings.</p> <p>The noise assessment has been undertaken on a reasonable worst case basis and therefore underestimations are not considered likely. The noise assessment includes reasonable worst case assumptions which have been agreed with SSDC (refer to Appendix A of the Statement of Common Ground agreed with SSDC (Document 8.7, REP2-050)).</p> <p>The bespoke noise insulation scheme includes a requirement for 'initial measurement' to be agreed with SSDC prior to occupation of the first warehouse. Furthermore, at this stage specific properties are not defined as all properties meeting the qualifying</p>

Topic / Individual	Comment (Reference)	Applicant's Response
		<p>criteria will be eligible. The bespoke scheme commits to criteria for assessing eligible properties, rather than pre-judging which homes may qualify.</p>
<p>Timing of Infrastructure</p>	<p>A number of comments state the Applicant does not intend on putting in the rail infrastructure for “at least” 6 years – and that the rail terminal may never be built, indicating that the proposal is not a NSIP.</p>	<p>A number of parties appear to have misunderstood the requirements in relation to the timing of infrastructure delivery.</p> <p>From the outset of the project the Applicant has set out, that rail is at the heart of the West Midlands Strategic Rail Freight Interchange proposals, see, for example, paragraph 1.2.2 of the Planning Statement (APP-252) and paragraph 1.3 of the Timing of the Provision of the Rail Freight Terminal (Appendix 2, Applicant's Responses to Deadline 2 Submissions, REP3-007).</p> <p>The Applicant has considerable rail expertise. As set out in 1.2.1 of the Planning Statement (APP-252), FAL is led by Kilbride Holdings, a company specialising in rail infrastructure to serve business and industry. The Kilbride team has developed rail-based projects for Jaguar Land Rover ('JLR') in Halewood and Castle Bromwich, amongst others. The Applicant has put a considerable amount of time and resource into the application proposals in order to be confident of its ability to deliver the Rail Terminal and other infrastructure within the timescales envisaged.</p>

Topic / Individual	Comment (Reference)	Applicant's Response
		<p>The Proposed Development will provide a strategic rail freight interchange (SRFI). This form of development (when constructed) is a NSIP, covered by the Planning Act 2008 (Sections 14 (1) (l) and 26). A SRFI is further described in the NPS (at footnote 42) as a large multi-purpose rail freight interchange and distribution centre linked into both the rail and trunk road system.</p> <p>Rail Requirement 4 (Rail Infrastructure) has been constructed and amended through the Examination process to ensure the delivery of the rail infrastructure and the project as a whole.</p> <p>Rail Requirement 5 requires the Applicant to "<i>pursue the completion of the rail terminal works as expeditiously as possible following the commencement of their construction</i>".</p> <p>Rail Requirement 9 (Rail Provision Milestones further requiring the Applicant to pursue each stage of the GRIP process "<i>expeditiously</i>". The intermodal freight terminal will be delivered across two phases, with an 'Initial Rail Terminal' delivered in the first phase of the development, capable of accommodating up to 4 trains a day, consistent with the Planning Act 2008 definition of a RFI NSIP. As the Proposed Development continues to grow, an 'Expanded Rail Terminal' will be provided, allowing up to 10 trains a day to be handled on site.</p>

Topic / Individual	Comment (Reference)	Applicant's Response
		<p>As set out in previous submissions (see the Applicant's response to ExQ3.1.1 (ii) and (iii) (REP7-004)), the Applicant is committed to the provision of the Rail Terminal as soon as possible.</p> <p>In response to ExQ3.1.1, the Applicant has set out the confidence it has in the timescale for the delivery of the rail connection as a result of its close working with Network Rail and the strong terms of Network Rail's support. Accordingly, the Applicant has committed to the simplified wording of Rail Requirement 4 (as suggested in Q3.1.1 (ii) by the ExA), to remove any doubt over its commitment to providing the rail terminal, or its commitment to providing the Rail Terminal as soon as possible and, in any event as a backstop, within a clear timescale.</p> <p>The anticipated timing of the provision of the Rail Freight Terminal is set out in Appendix 2 to Document 11.1 submitted at Deadline 3 of the Examination (REP3-007). This appendix demonstrates that the Applicant fully understands all of the processes necessary for delivery of the rail freight terminal and correspondence within that appendix confirms that Network Rail consider the draft programme is robust.</p> <p>The Applicant believes from responses to Deadline 7 that some parties have misunderstood the purpose of Rail Requirement 4 (1) (b), suggesting that the rail terminal would not be provided for "at least" six years, or may not be provided at all.</p>

Topic / Individual	Comment (Reference)	Applicant's Response
		<p>Part 1 of Rail Requirement 4 will ensure the very latest the rail terminal could be provided by the Applicant is within 6 years of the occupation of more than 47,000 sq m of warehousing, or prior to the occupation of more than 186,000 sq m of warehousing at the Site. The six years is provided only as a 'backstop' arrangement for surety. The Applicant is fully committed to bringing forward the rail terminal as soon as is possible.</p> <p>In this context, as is set out in the Applicant's response to SSDC above, it is important to recognise that the commitment relates the earliest of either prior to the occupation of more than (186,000 sqm) of warehousing <u>or</u> to 6 years from the first occupation of more than 47,000 sqm. Each separate commitment provides a back stop to the other to ensure that the rail interchange is provided. The Applicant has every commercial incentive to complete the rail terminal sooner in order to be able to meet the anticipated demand for the SRFI as a whole.</p> <p>The Applicant has proposed the rail requirements as amended through the Examination process in full recognition of the importance of these obligations. Third parties may not have appreciated that non-compliance with the terms of a DCO is a criminal offence.</p>

Topic / Individual	Comment (Reference)	Applicant's Response
Timing of infrastructure	Query as to whether other RFIs have been built without a rail link being in place prior to occupation of warehousing.	The Applicant's response to ExQ2.2.30 sets out that there are no recent examples of rail terminals being delivered before the occupation of warehousing (see Appendix 6 of the Applicant's Responses to Examining Authority's Second Written Questions and Requests for Information, REP5-004).
Transport	Query as to whether the road will be closed under the bridge between Station Drive and Station Road.	<p>It is not the intention of the Applicant to promote a closure of Station Drive in both directions at the rail bridge. The applicant's proposals include banning the right turn into Station Drive at the A449 junction. These proposals, along with the wider transport mitigation package, have been assessed and agreed with both the local highway authority (Staffordshire County Council) and the strategic highway authority (Highways England). This is documented in the respective Statements of Common Ground (HE REP2-008 and SCC REP2-007).</p> <p>The Applicant's review and consideration of the complete closure of Station Drive is set out in its Technical Note 42 (Deadline 4 Submission REP4-007). Following representations from other interested parties, further analysis of this closure is included in Technical Note 45 (Deadline 7 REP7-003). The conclusion of this exercise is that it is not necessary or appropriate for Station Drive to be completely closed.</p>

Topic / Individual	Comment (Reference)	Applicant's Response
Daniel Williams	Requests for information.	<p>The Applicant notes that Highways England (see REP7-030) have reviewed the submissions of Mr Williams and have nothing further to add.</p> <p>The Applicant has also reviewed this response and has nothing further to add to its previous responses to queries from Mr Williams. The Applicant's previous responses to queries raised by Mr Williams are set out below:</p> <ul style="list-style-type: none"> • 17.1.031 and 17.1.032 of the Applicant's Responses to Deadline 6 Submissions (Document 17.1; REP7-003); • 16.1.029 of the Applicant's Responses to DL5 Submissions and Other Requests (Document 16.1; REP6-011); • the Applicant's response to ExQ2.2.27 (Document 15.1; REP5-003); and • at a number of points (without direct reference to Mr Williams), for example RAI.5 and TRN.11, in the Applicant's Responses to Other Parties Deadline 2 Submissions (Document 11.1; REP3-007).
Transport	Query regarding the validity of the traffic count at the Station Drive / A449 junction.	The Applicant has previously addressed concerns raised over the methods applied to monitor traffic at this junction. These were addressed in the Applicant's Deadline 3 submission (REP3-007).

Topic / Individual	Comment (Reference)	Applicant's Response
<p>Sue Worrall (REP7-127)</p>	<p><i>“One plan seems to indicate that monitoring was done on certain properties in Stable Lane, Cobweb Cottage, Elmhurst etc.”</i></p> <p><i>“...not all properties were included and yet they are equidistant from the warehouses”</i></p> <p><i>“...yet the other dates when monitoring took place, one of which was November (N8, N9 and other sites) but these were not disclosed”</i></p> <p><i>“Whatever the noise levels monitored they cannot accurately monitor the noise level that would be created in Stable Lane where the noise of the motorway would</i></p>	<p>No noise monitoring was undertaken at Stable Lane, Cobweb Cottage, Elmhurst etc. The plans that includes these points are Figure 13.2 (Document 6.2, ES Figure 13.2, APP-048) and its successor submitted with the addendum to the noise ES Chapter, Figure 13A.2 (Document 6.2, REP2-014). These plans both show the locations at which noise predictions were made.</p> <p>As noted in paragraphs 13.247, 13.283 and 13.312 of Chapter 13 of the ES (Document 6.2, APP-046), and in paragraph 13A.118 of the addendum to the ES (Document 6.2, REP2-014), the locations assessed are a representative sample of all of the receptors close to the Site. As per the recognised assessment method, it is not necessary for each and every receptor to be assessed.</p> <p>No noise monitoring has been undertaken for this project in the month of November. Measurements have been undertaken in August 2016, October 2016, and January 2017, as reported in Chapter 13 of the ES (Document 6.2, APP-046), and in June/July 2018, as reported in the addendum to the ES Noise Chapter (Document 6.2, REP2-014).</p> <p>The Applicant followed the British Standard method for assessing operational noise impacts, which requires consideration of the</p>

Topic / Individual	Comment (Reference)	Applicant's Response
	<i>reverberate against the warehouses. They are only looking at the extra noise the warehouses would create with lorries etc."</i>	<p>activities and processes proposed at the site, not the effect of reflections from the buildings.</p> <p>Reflections of transportation noise from existing sources, such as motorways or busy A roads from proposed development buildings does not typically give rise to a significant effect that would warrant detailed assessment.</p>
Laurence Hunt	<i>"We understand that Crateford Lane is to become a one way system, so will H.G.Vs, goods vehicles over 7.5 tons, buses and coaches, be prohibited from using this narrow Lane with overhanging trees?"</i>	<p>The proposals are for Crateford Lane to become one way eastbound at the junction with the A449 to prevent WMI employee traffic using this route. The road would remain two way west of the first residential property reached from the A449.</p> <p>There are no existing access restrictions for HGVs on Crateford Lane or the surrounding roads and it is not intended to add any as part of the proposed development. However, it is proposed to provide signage at the western access points to Crateford Lane to inform drivers of large vehicles that the route is not suitable as set out the Site Wide HGV Management Plan (SWHGVM) (AS-040). HGVs associated with WMI would not be expected to use these routes, unless for very local access, and, as part of the SWHGVM, route guidance given to drivers visiting the site would discourage use of unsuitable roads such as Crateford Lane and those surrounding it.</p>

Topic / Individual	Comment (Reference)	Applicant's Response
	<p><i>“Could I also submit that if the lane is to become a one way system it will increase the distance by some 2miles for the residents to get back to the A449 to travel to either Telford via the A5 or Wolverhampton via the Four Ashes Road. I would also like to submit that because the lane will be becoming busier it is less likely that we will be able to use it safely for recreational purposes or just to safely walk along it to catch the bus on the A449 we therefore feel more restricted in what we can do for leisure activities.”</i></p>	<p>As set out in the SWHGVMP, the area covered by the Contingent Traffic Management Fund, includes Crateford Lane. Therefore, in the event that HGV traffic associated with WMI is consistently observed to be using Crateford Lane, the Contingent Traffic Management Fund could be called upon to fund measures to prevent inappropriate use of this road, including the implementation of HGV access restrictions.</p> <p>The proposals are for Crateford Lane to become one way eastbound at the junction with the A449 to prevent WMI employee traffic using this route. The road would remain two way west of the first residential property reached from the A449. It is accepted that residents will have to travel further if they previously accessed Crateford Lane from the A449. Crateford Lane will be one way out onto the A449 and as set out above, the one way working will be localised at the junction only. Therefore, there will be no restriction for residents leaving their properties as they will be able to head east onto the A449 or West towards the A5 and Telford. Residents heading towards their properties from the A449 south will need to turn off the A449 at the Station Drive / Four Ashes Road junction and then travel along Four Ashes Road if coming from the south. A diversion of approximately 1km. Residents head in from the north east (Gailey) will have to turn onto the A5 westbound and then onto Claygates Road. A diversion of approximately 1.4km.</p> <p>There are no existing access restrictions for HGVs on Crateford Lane or the surrounding roads and it is not intended to add any as</p>

Topic / Individual	Comment (Reference)	Applicant's Response
	<p><i>"Sir, I notice on the project maps the provision for bat hopovers and wildlife crossings, my great concern here is not for the provisions themselves but for the fact that once these birds and animals are disturbed there is a real and deep feeling that we will not be see these birds and animals again if not for their disturbance then for their lack of food e.g moles,voles, insects, bugs etc once gone I believe it will take some time for the wildlife to re-establish itself if at all."</i></p>	<p>part of the proposed development. However, it is proposed to provide signage at the western access points to Crateford Lane to inform drivers of large vehicles that the route is not suitable as set out the Site Wide HGV Management Plan (SWHGVMP) (AS-040). HGVs and good vehicles associated with WMI would not be expected to use these routes, unless for very local access, and route guidance given to drivers visiting the site as part of the SWHGVMP would discourage use of unsuitable roads such as Crateford Lane and those surrounding it. The area covered by the Contingent Traffic Management Fund, as set out in the SWHGVMP, includes Crateford Lane. Therefore, in the event that HGV traffic associated with WMI is consistently observed to be using Crateford Lane, the Contingent Traffic Management Fund could be called upon to fund measures to prevent inappropriate use of this road, including the implementation of HGV access restrictions.</p> <p>The FEMMP (Document 6.2, ES Technical Appendix 10.4 (REP5-033) as secured via Requirement 11 of the DCO (Document 3.1E)) provides details of habitats to be created within the green infrastructure including; open water – ponds, marshy grassland, species rich grassland (lowland meadow), native broadleaved woodland, individual tree planting including fruit trees, native species rich hedgerows, scrub, deadwood, bare sandy exposures, arable, amenity grassland and on-plot landscaping. These habitats will be managed in the long term for biodiversity and will be of value for a range of species including birds, bats, amphibians, reptiles</p>

Topic / Individual	Comment (Reference)	Applicant's Response
	<p><i>“Could I also bring your attention to something that was not mentioned at all; I am now speaking of the otters that have been seen at the top of Gravelly Way near the canal in recent months. If disturbed it is almost a certainty that they will not come back again.”</i></p>	<p>and invertebrates. The Statement of Common Ground agreed with Natural England (NE) (REP1-003) at paragraph 5.1.11 states: <i>“FAL and NE agree that ecological enhancement measures are outlined in the final ES, which will have a positive effect on biodiversity and accord with relevant guidance”</i>. The FEMMP (Document 6.2, ES Technical Appendix 10.4, REP5-033) sets out measures to minimise disturbance during construction and operation. These mitigation measures have been agreed with SCC and NE. The addendum SoCG between SCC and FAL (paragraph 3.2, REP5-039) and NE and FAL (paragraph 5.1.12, REP1-003) state: <i>“the proposed Ecological Mitigation and Management Plan (EMMPs) for each phase of development comprises an appropriate mechanism for securing ecological enhancement and mitigation”</i>.</p> <p>Otter surveys were undertaken and were assumed to be present and were subsequently considered within the ES, Chapter 10 (Document 6.2, APP-030). Otters can travel over large areas, using 20 km or more of river / watercourse habitat (http://www.mammal.org.uk/sites/default/files/factsheets/otter_complete.pdf). Disturbance effects on otter were considered in ES paragraphs 10.291 to 10.296 (construction) and 10.381 to 10.383 (operation) within the ES, Chapter 10 (Document 6.2, APP-030). Furthermore, published literature (http://publications.naturalengland.org.uk/file/82038) suggests that otters are very flexible and are not significantly affected by various forms of anthropogenic disturbance, in terms of noise or proximity to human activity, which was considered and</p>

Topic / Individual	Comment (Reference)	Applicant's Response
		also the existing context of the adjacent canal was taken into account. Given these factors, a significant effect such as to affect the conservation status of otter (which are increasingly being recorded in busy locations such as town centres) was not considered likely.

Public Health England Response

The West Midlands Rail Freight Interchange Order 201X

Four Ashes Limited

Matthew Royall

From: CRCE.BirminghamManchester <CRCE.BirminghamManchester@phe.gov.uk>
Sent: 13 August 2019 11:48
To: Matthew Royall
Cc: Nsipconsultations; CRCE.BirminghamManchester
Subject: West Midlands Interchange (PHE ref CIRIS 51790)

Re: West Midlands Interchange

Dear Matt,
Further to our telephone conversation, I can confirm that we have no additional comments at this stage.
Kind regards
Toby

Dr Toby Smith
Specialist Environmental Public Health Scientist
Environmental Hazards and Emergencies Department (EHED)
Centre for Radiation, Chemical and Environmental Hazards (CRCE)
Public Health England

CRCE-EHE@phe.gov.uk
Tel: 0300 303 3049

www.gov.uk/phe Follow us on Twitter @PHE_uk
Protecting and improving the nation's health



From: Matthew Royall <MRoyall@ramboll.com>
Sent: 12 August 2019 09:48
To: Nsipconsultations <Nsipconsultations@phe.gov.uk>
Cc: Graham Harker <GHARKER@ramboll.com>
Subject: RE: West Midlands Interchange - PHE ref CIRIS 51790

Dear Sir / Madam

Further to my email below, I wonder if it is possible to speak to the person considering this application in order to discuss the additional information I provided. If so could they provide their contact details or call me on my number below?

Regards

Matt

Matt Royall

CEnv, SiLC, MIEMA
Principal

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From: Matthew Royall
Sent: 08 August 2019 16:47
To: nsipconsultations@phe.gov.uk
Cc: Graham Harker <GHARKER@ramboll.com>
Subject: West Midlands Interchange - PHE ref CIRIS 51790

FAO – National Infrastructure Planning Administration

Dear Sir / Madam

Many thanks for your comments dated 2nd August 2019 in relation to the above project.

In response to a comment from the inspector the entire Air Quality chapter has been updated. The updated chapter and amended appendices are attached as tracked change documents (to make it easier to review changes). The documents are also on the PINS website. Appendices 7.1, 7.5 and 7.8 are unchanged.

The overall conclusions remain the same as per the original air quality assessment, with air quality matters complying with the relevant elements of the National Policy Statement (see para 7.209 of the updated chapter).

The inspector has asked for comments by Deadline 8 which is 21st August. However, this is the final deadline for the Examination. Therefore, it would be in the interest of all parties if any comments / queries can be addressed before this date. Therefore, if matters are to your satisfaction, hopefully all parties can confirm agreement by the end of the Examination.

Should you have any comments / queries on the documentation (or require any further information / clarification) please don't hesitate to contact me.

Regards

Matt

Matt Royall
CEnv, SiLC, MIEMA
Principal

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Applicant's response to
Greensforge Sailing Club

The West Midlands Rail Freight Interchange Order 201X

Four Ashes Limited

WEST MIDLANDS INTERCHANGE

APPENDIX 2

RESPONSE TO DEADLINE 7 SUBMISSIONS ABOUT EFFECTS ON GREENSFORGE SAILING CLUB (REP7-035, REP7-066 AND REP7-111)

1 Introduction

- 1.1 This document is a response to various Deadline 7 submissions which relate to Greensforge Sailing Club (REP7-035, REP7-066 and REP7-111).
- 1.2 The applicant has actively tried to engage with Greensforge Sailing Club (GSC). Following a meeting on 20th May 2019, the applicant issued meeting minutes which included additional information as requested by GSC (meeting minutes issued on 28th May 2019). Within the email correspondence the applicant requested for *'any comments or queries with the minutes'*. Following a lack of any response further email correspondence was issued to GSC on 13th June 2019, again requesting comments on the meeting minutes and especially regarding the post-meeting notes where the applicant provided further requested information / clarification. The applicant's intention was to use the minutes from the 20th May 2019 meeting, once agreed with GSC, as a starting point for a draft Statement of Common Ground (SoCG). In fact following the 20th May 2019 meeting the applicant did not receive any email correspondence from GSC until 31st July 2019.
- 1.3 It is proving difficult to agree a SoCG with GSC. A response was received to the Applicant's draft on 15 August 2019. The response records a dispute over much of the content. Both parties will continue to try to settle a SoCG for the examination but, in the meantime, it may be helpful for the Examining Authority to see the latest travelling draft, which is helpful at least in identifying the areas of disagreement.
- 1.4 The current travelling draft of the SoCG is attached as Annex 1.

2 'Curving' of wind around Calf Heath Reservoir

- 2.1 GSC has made comments suggesting that because the Applicant's assessments do not illustrate the wind 'curving' around the reservoir (2.10 in GSC's Deadline 7 response, REP7-035 and pages 1 and 2 of REP7-066) this brings into question the assessments. The Applicant does not concur with this view. As for any robust environmental assessment, there is a need to follow a recognised approach, which the Computational Fluid Dynamic (CFD) modelling has provided.
- 2.2 The Figures presented in the RWDI (REP4-013) and Wolfson Unit study (REP4-012) show wind speed intensity, not direction (which was potentially misunderstood by GSC). The applicant can't verify the data provided by GSC, however the applicant's advisors have further considered the points raised by GSC and **Figure 1**, below, illustrates local wind angles of the data used by RWDI for the existing site at a nominal wind angle of 270 degrees and 3-metre measurement height. Figure 1 is based on the existing CFD model data and in general terms this shows the wind 'curving' around the reservoir in a similar manner to the anecdotal evidence provided by GSC.
- 2.3 The base CFD results underlying the analysis by RWDI are in general terms predicting what is being perceived on the reservoir by the users (from a qualitative comparison), reinforcing the validity of the data and subsequent approaches.

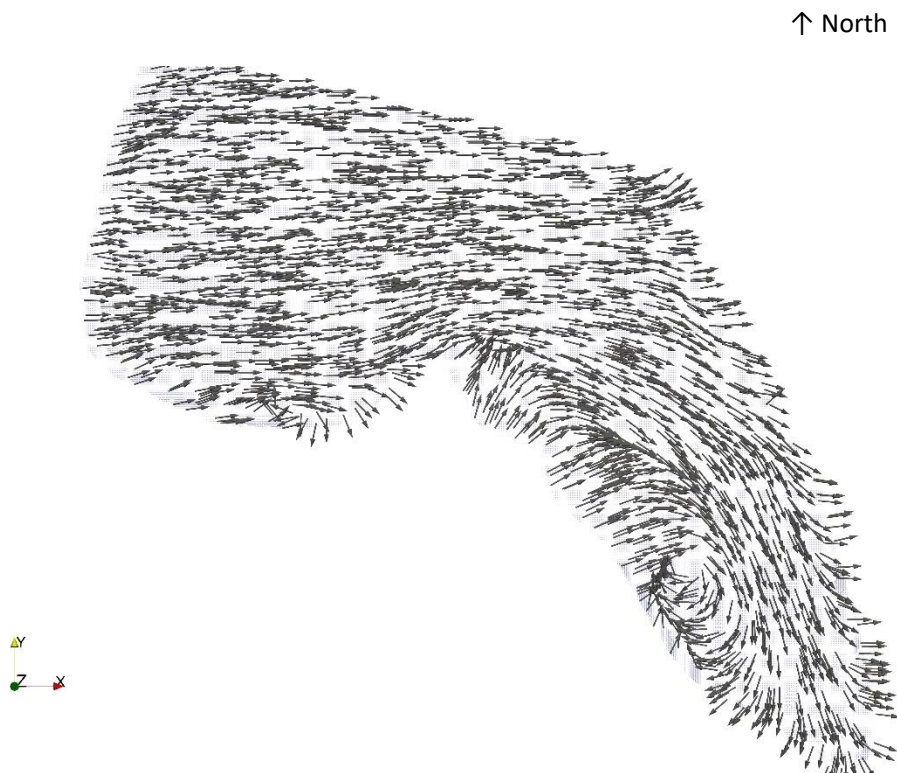


Figure 1: Local wind directions

3 Higher Wind Speeds

- 3.1 The RWDI study (REP4-013) includes wind simulations which are run at a fixed ‘reference’ wind condition. Using this reference condition the resulting mean wind speeds can be scaled up or down to predict mean speeds under different conditions. This is a scientifically valid process used throughout wind engineering, including CFD assessments. The 80th percentile speed was chosen as RWDI’s reference condition to provide appropriately conservative results. Then Wolfson Unit used the raw data along with the scaling to determine the impact on sailing under conditions other than the 80th percentile wind speed.
- 3.2 As outlined previously (point 2.23, Document 16.1, Appendix 2, REP6-011): *“A wider range of wind speeds wouldn’t make significant differences to the outcome of the existing assessment. For example, if the sailing quality approach were to be extended to a greater range of speeds, i.e. 3 knots – 16 knots for instance then the relative differences between existing and development scenario conclusions are likely to be similar.”*

4 Assessments Undertaken by the Applicant

- 4.1 While there are some limitations to CFD modelling (as there is for any modelling technique), the method overall is considered appropriate and robust. It is considered beneficial to use a scientific assessment to better understand effects rather than not undertake any modelling, otherwise consideration of the issues would be more subjective.
- 4.2 Regarding comments with respect to potential ‘backdrafting’ (page 3, REP7-066), these effects are typically only experienced immediately adjacent to the building in question and in this case would be very unlikely to reach the reservoir.
- 4.3 GSC have proposed use of alternative sources including ‘Government backed sources from Denmark’ (2.3, REP7-035). The Danish website cited by GSC refers to the European Wind Atlas methodology for its sheltering calculations. In chapter 8.4 of this document, where this model is described there are the

following comments: *"In the wake immediately behind a blunt object, such as a row of trees or a house (less than five object heights downstream and at heights less than twice the height of the object) the details of the object exert a critical influence on the effects. The wake behind a building depends for example on the detailed geometry of the roof and the incidence angle of the wind, to mention two parameters. In addition, wakes from other nearby objects may interfere, causing the problem to become very complicated."* and *"...the shelter model constructed for use in the analysis should be seen as a tool for correcting data influenced by single obstacles that are sufficiently far away to make the perturbations small and to avoid the intricacies of the nearby wakes."* Given the complexities of the factors affecting the modelling, the European Wind Atlas methodology is not an appropriate tool to assess the impacts of the development. Therefore, the CFD modelling data is considered a more robust modelling method.

4.4 The applicant considers that GSC haven't proposed viable methods of assessment as alternatives to the assessments undertaken by the applicant. The assessments undertaken by the Applicant follow a recognised methodology and in fact as illustrated in Figure 1 above the findings aren't inconsistent with GSC's experience.

5 Potential Mitigation Measures

5.1 GSC assert that buildings up to 30m will be placed immediately south-west of the reservoir and will block the prevailing wind. The Parameter Plan (drawing 4049-1031 rev 07, AS-057), however, demonstrates the Applicant's commitment to set the potentially taller building back from the reservoir, to limit its width across the zone and to step down building heights to 24 and 20m. The RWDI model has assessed a 34m building across zone 4a in scenario C3 and represents very much a worst case assessment – as the comparison with scenario C2 shows.

5.2 The mitigation suggested by GSC is to relocate the taller building to another WMI zone or, in any event, to limit the height of buildings in zone 4a. The Applicant does not propose to further limit the height here, however, for the following principal reasons:

- The ability to deliver buildings up to 30m is important to the marketing and success of WMI. As the updated Market Assessment report (REP2-004 – paragraph 4.4.3) identifies technology changes and occupier requirements value the increased height and volume proposed and buildings of this scale should be provided to meet market requirements where practical;¹
- The assessed impact of even the worst case buildings is "modest";²
- GSC's position is inconsistent in this respect. On the one hand, the Club seeks a reduction in height but on the other it suggests that the use of a taller building suits the Applicant's case because a taller building *"disperses the wind turbulence further across the reservoir"* (GSC Deadline 7 submission para 2.28 – REP7-035). GSC is not clear whether it wants a taller or shorter building;
- GSC is concerned that the effect of the development will be to create "more challenging" sailing conditions from turbulence for junior members but then expresses concern that gusts *"are important as it is mastering gusts that provides the challenge in the sport of sailing"* (travelling draft SoCG, GSC response to paragraph 4.1.3, Annex 1) and that the Applicant's assessment is insufficient because

¹ By analogy, NPS paragraph 5.159 is helpful here. It warns against reducing the scale or functionality of an NSIP. It explains that a small reduction in scale may be warranted but only where it would result in a "very significant benefit."

² The Applicant's case in this respect is set out in its note on Greensforge Sailing Club at paragraphs 1.7 to 1.9 (Applicant's response to EXQ2.13.5 – document 15.1, Appendix 12 – REP5-005).

“there has been no assessment of the conditions impacting on experienced sailors., who make up the majority of the club’s membership” (travelling draft SoCG page 10, Annex 1).

- 5.3 It is not apparent, therefore, that reducing the scale of buildings further would have a significant effect or in fact whether that effect would be relatively beneficial or harmful for sailors on the reservoir. In these circumstances, and given the importance of taller buildings to meet market requirements, the mitigation suggested is not necessary, proportionate or consistent with the NPS.
- 5.4 Even noting the market requirements as outlined above, it is not true to say that throughout the evolution of the project the building heights haven’t altered. As outlined in the Design and Access Statement (paragraph 5.12.7, APP-258) the maximum height of the buildings was reduced from 36m to 30m.

6 Leeward effects

- 6.1 As previously stated, the principle of effects on the leeward side of a structure is not disputed (point 2.6, Document 16.1, Appendix 2, REP6-011). The RWDI study (REP4-013) does consider effects on the leeward side of proposed buildings (refer to figures in Section 6). Furthermore, the ‘calm zones’ highlighted in the RWDI study denote areas on the leeward side where the influence of the structures may be experienced. Therefore, contrary to GSC’s comments (2.2, REP7-035), areas where the reservoir was potentially impacted by the proposed buildings were identified in RWDI’s study as zones where flow was accelerated/decelerated compared to the baseline condition.

7 Curved Roof for Proposed Buildings

- 7.1 RWDI has previously stated that the roof shape would not play a large role in the overall wind patterns (post meeting note, meeting minutes from 20th May 2019, Appendix 1 in REP5-005), since the facades act as an obstruction to flow. The applicant acknowledges GSC’s analogy about ‘aeroplane wings’ (page 3, REP7-066), however with respect to wind flow effects an aeroplane wing and a building with a curved roof are not directly comparable.

8 Existing Trees

- 8.1 The Arboricultural Assessment (Document 6.2, ES Technical Appendix 12.7, APP-105) provided a description of the general composition and condition of the tree cover around Calf Heath Reservoir as part of the Site constraint information. The assessment described the planting being formed of a mixture of species and ages, including both evergreen and broadleaved types with variation in condition found in the component trees as would typically be expected of larger scale planting with limited management intervention. The heights of trees varied across the area due to differing species as did structure and density.
- 8.2 Due to the variation in composition of species, current structure and density of the planting, it is not considered that that all of the tree cover has reached optimum growth and it is expected that some of the species will still, over time, further develop in size, whilst others less so.
- 8.3 Therefore, whilst some of the trees may have potentially reached maturity, this is unlikely to be the case for all trees. The applicant considers it is correct to assume that tree cover around Calf Heath Reservoir will further develop and as such sailing effects on the reservoir will continue to worsen over time.

9 Earth Bunds

- 9.1 The earth bunds are an important part of the proposed development. The bunds have been developed following rigorous assessment and liaison with stakeholders. The bunds are necessary for visual impact and noise mitigation purposes.

10 Alternative Sailing Options in the area

10.1 At para 2.26 of its deadline 7 submission (REP7-035), GSC rejects the suggestion that other sailing clubs are necessarily “available” to sailors as an alternative to GSC, suggesting that the larger South Staffordshire Sailing Club situated immediately across the motorway would be unlikely to accept members of the club as a result of their approach to membership and requirements for competitive sailing. GSC assert that it is important that entry level sailing is maintained in the local area, with the implication that this is somehow under threat from the WMI proposals.

10.2 These assertions are difficult to square with:

- The modest impacts that the WMI proposals would have on the GSC reservoir and the acceptance that the whole of the reservoir would remain able to be sailed;
- GSC’s case that the significant majority of its members are experienced sailors; and
- The open membership policy of the South Staffordshire Sailing Club.

10.3 In particular, the South Staffordshire Sailing Club has a very welcoming approach to beginners/novices. For example, the following is available on its web site:

<http://www.southstaffssailingclub.co.uk/learn-to-sail/beginners-banter/>

“Earlier this year I chanced upon the SSSC and popped in to enquire about learning to sail. I was made to feel most welcome and was impressed by the enthusiasm of the members. They were obviously passionate about both the sport and the club, and keen to encourage new members. As a result I signed up for a level one course followed by their ‘Plus 1’ programme and a level 2 course.”

“The club places emphasis on retaining new members and encouraging us to continue in the sport. It is spending much time and effort to offer opportunities for advancement and experience in all aspects of its extensive activities and events.”

10.4 The Club’s literature places a particular emphasis on families, juniors and community and there doesn’t appear to be any restrictions on membership – the SSSC Membership Form and club information is available below. ³

11 Miscellaneous

11.1 Further to comments provided by GSC (last paragraph, page 5, REP7-066), the Applicant can confirm that Mr. Frost (or any member of the Applicant team) does not have a key to any GSC premises.

11.2 In response to 1st paragraph, page 6, REP7-066, during the Accompanied Site Inspection (ASI) on 3rd and 4th June 2019 the applicant did not try and stop members of GSC speaking to the Inspector. As members of GSC were not present at the start of the ASI, the applicant simply repeated the Inspector’s comments that the ASI was not a forum for parties to make representations, however parties could make factual observations of locations they may wish the Inspector to view during the ASI. It is noted that during the ASI



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the Inspector walked around the entirety of Calf Heath Reservoir so had a good opportunity to view the location. Also GSC have made a number of written representations during the Examination and had an opportunity to make representations in person during the Issue Specific Hearing on Environmental Effects on 6th June 2019.

12 Conclusion

12.1 The Applicant will continue to attempt to reach common ground with GSC. However, the club's objection is strongly worded and there is little apparent agreement between the parties. In the event that the objection remains outstanding, the Examining Authority is respectfully referred to the Applicant's submissions, which it is suggested, establish the following:

- a. The Applicant has undertaken a best practice and proportionate assessment of the effects of the proposals on the sailing club using experienced and well qualified consultancies adopting a methodology which has been accepted elsewhere and which gives a good representation of sailing conditions;
- b. That assessment shows that the reservoir is relatively constrained by its size, location and by tree screening such that sailing conditions are compromised to some extent, so that this is not a high quality sailing reservoir;
- c. Nevertheless, the club is popular with its members, who sail the whole reservoir notwithstanding these limitations and notwithstanding the availability of alternative sailing opportunities on more open water at an alternative club very close by;
- d. The impacts of the WMI development have been assessed as modest – no part of the reservoir would be incapable of sailing and the character of sailing at the reservoir would not significantly change;
- e. The proposed development sets taller buildings back from the reservoir and steps height down towards the reservoir. These measures are proportionate but further constraints on height would not be appropriate given their limited likely effects and the lack of evidence that further changes would actually benefit sailing conditions at the reservoir where variability of wind conditions can be a benefit rather than adverse; and
- f. There is no evidence that the club's future is threatened by the development and no case to be made that the public interest would be affected given the immediate availability of an alternative sailing club with more open water very close to the GSC.

21st August 2019

Travelling Draft
Sailing SoCG between FAL and
Greensforge Sailing Club

The West Midlands Rail Freight Interchange Order 201X

Four Ashes Limited

The West Midlands Rail Freight Interchange Order 201x

Sailing - Statement of Common Ground – Greensforge Sailing Club

Travelling draft

Regulation 5(2)(q)

August 2019

Ramboll

Revision	Date	Authors
1	02/08/19	Ramboll
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The original wording of the initial draft SoCG was issued to GSC and comprises black coloured text. Furthermore, GSC made amendments to paragraphs 3.1.1 to 3.1.6 which have been accepted by FAL (which again comprises black coloured text).

GSC's comments (as received on 15th August 2019) which aren't agreed are shown in green text.

FAL's subsequent responses to GSC's amendments are shown in blue coloured text as part of this travelling draft which was issued to GSC on 21st August 2019.

1. GLOSSARY

1.1.1 The terms used in this document are as follows:

DCLG	Department for Communities and Local Government
DCO	Development Consent Order
ExA	Examining Authority
SoCG	Statement of Common Ground
SRFI	Strategic Rail Freight Interchange
GSC	Greensforge Sailing Club
WMI	West Midlands Interchange

2. INTRODUCTION

2.1.1 This (travelling draft) Statement of Common Ground (SoCG) has been prepared by Ramboll UK Ltd (Ramboll) on behalf of Four Ashes Limited (FAL, the Applicant) and Greensforge Sailing Club (GSC). It sets out common ground between the two parties in respect of the West Midlands Interchange (WMI) application (the Application).

2.1.2 This statement sets out the matters of interest to GSC on which there is full agreement between the Applicant and GSC. It also sets out the matters which, at the time of writing, there is not full agreement between GSC and the Applicant.

2.1.3 The purpose of this statement is to assist the Examining Authority (ExA) in making its recommendation on the Application. It has been prepared in accordance with DCLG Guidance¹.

2.1.4 The Applicant and GSC have corresponded through the consultation period of the Application. This has shaped the technical inputs to the Application as submitted. Ramboll has undertaken liaison with GSC representatives by

¹ Planning Act 2008: Guidance for the examination of applications for development consent, DCLG, March 2015

telephone and also attended a meeting with GSC on 20th May 2019 to discuss sailing issues.

3. GENERAL MATTERS AGREED

- 3.1.1 Greensforge Sailing Club is a not-for-profit organisation founded in 1958. It has utilised Calf Heath Reservoir as its base since 1974 with occupation secured via a second thirty-year licence (20 years remaining), the Club has held since it started operating at Calf Heath Reservoir. There are currently 40 active adult sailing members, some of whom have sailed at the Club for over 50 years, and an additional 30 social members. In addition, there are approx. 100 junior members, primarily associated with the Sea Scouts (Royal Navy associated) and the Sea Cadets (MOD associated). Both are registered charities. Of these junior members, approximately 40 will sail regularly.
- 3.1.2 GSC has held RYA Training Centre status since 2013. This has enabled the Club to implement development plans both in the physical infrastructure of the Club through attracting significant levels of grant investment, as well as promoting sailing to a wide range of people, running RYA Level 1 & 2 Adult courses and RYA Level 1-4 Junior courses, and providing a number of taster sessions throughout the year. This results in approx. 200 additional individuals accessing the reservoir each year.
- 3.1.3 The site is also utilised by Blackfords Angling Society, operating under a separate licence, and is also occasionally used for other water sports such as Kayaking and Canoeing.
- 3.1.4 The designated Officer of the Day and Safety Boat Officer, who have ultimate responsibility for ensuring the safety of all sailors, will, in more adverse conditions, determine whether it is appropriate to permit sailing to progress, and may restrict those of lesser competency from sailing on such occasions.
- 3.1.5 At Calf Heath Reservoir, the prevailing wind is a south-westerly to westerly direction.

- 3.1.6 Sailing on the reservoir utilises the whole lake, with the race start line opposite the Clubhouse in the southern section, with courses set around five moveable buoys located throughout the remainder of the site. The area in the south-eastern corner of the reservoir is generally less sailed due to restrictions in this part of the lake, including depth particularly in the vicinity of the sluice, the presence of ground tackle and historic mooring lines, and the increased predominance of fishing pegs due to the narrowing of the reservoir in this location. In addition, the tree cover in this part of the reservoir has a shadowing effect which decreases in the Autumn and the Winter. Consequently, the southern part of the reservoir is less well used.
- 3.1.7 Whilst virtually all of the reservoir is sailed, therefore, the reservoir is relatively constrained compared to reservoirs or lakes in a more open environment such as the larger South Staffordshire Sailing Club, which is located immediately across the motorway (www.southstaffssailingclub.co.uk).

Greensforge Sailing Club do not accept this statement. Apart from the tree cover in the south-east part of the reservoir as stated, sailing is not restricted anywhere on the reservoir.

FAL consider the above paragraph appears to contradict 3.1.6. The assertion of restricted sailing is based on a response from GSC dated 8th February 2019 which outlines areas of the reservoir not commonly used and on the results of the RWDI study.

No assessment of sailing quality has been undertaken at South Staffordshire Sailing Club, nor has it been submitted as part of the applicant's evidence. The applicant has made an unqualified, subjective assessment in making this statement.

FAL suggests that from simply viewing the reservoir used by South Staffordshire Sailing Club from the A5 that it clearly has substantially more 'open' water with fewer constraints.

- 3.1.8 RWDI and the Wolfson Unit (Wolfson) carried out a study on the effects of wind environment changes as a result of potential development to the south and west of the Calf Heath Reservoir. The applicant submitted a summary of this technical work, which was previously provided to the Sailing Club and submitted to the examination (ref: REP4-012 and REP4-013).

3.1.9 The author of the Wolfson Unit report (Rep4-012) holds a PhD in naval architecture and has over 20 years experience as a consultant engineer at the Wolfson Unit for Marine Technology and Industrial Aerodynamics conducting consultancy and applied research. His specialist areas include:

- Yacht performance prediction; and
- Experimental hydrodynamics and aerodynamics.

3.1.10 RWDI has been studying how buildings and the wind interact for more than forty years. RWDI has helped clients understand the effects of these interactions on every continent, and at scales ranging from individual buildings to recent work conducting physical and computational wind modelling within the entire City of London. RWDI are recognised experts in wind engineering.

3.1.11 The RWDI study assessed the effects of the potential development on the sailing conditions at Calf Heath Reservoir. This assessment was based on the following:

- A review of regional long-term meteorological data for the area;
- Layouts of the proposed development;
- Professional engineering judgement and knowledge of wind flows around buildings 1-3; and,
- The use of the Computational Fluid Dynamics (CFD) software OpenFOAM for visualizing wind flow patterns.

4. DETAILED MATTERS AGREED

4.1.1 RWDI modelled the potential effects of two alternative warehouse layouts in the development zones closest to the reservoir (Wolfson report Figure 2: Configurations 2 and 3). The modelling was undertaken on a conservative basis, which is considered to represent a 'worse-case'. For C2 building heights were taken as 24m, 30m and 34m, whilst C3 used a building of 34m

which was assumed across the full width of development zone A4a (RWDI report page 4). In practice, parameter plan: Floor Levels and Building Heights restricts buildings in zone A4a to a maximum of 30m, with maximum heights of 20-24m adjacent to the reservoir.

Greensforge Sailing Club cannot agree this statement. The Parameters plan submitted show that in Zone A4A, buildings of up to 30m will be placed immediately to the south and south-west of the reservoir. It also shows that closer to the reservoir small zones of heights of 20m and 24m height are shown. However, the prevailing wind from the west and south-west will be blocked by the larger, 30m high buildings located in this zone.

With respect to the above paragraph FAL considers the modelling does comprise a conservative worst case basis.

- 4.1.2 There are some limitations to CFD modelling (as there is for any modelling technique). However, the method overall is considered appropriate. Also, it is considered beneficial to utilise scientific assessment to better understand effects rather than not undertake any modelling, otherwise consideration of the issues would be more subjective.

Greensforge Sailing Club do not have any specific issue with the use of CFD modelling. However, the model utilised fails to recognise existing baseline conditions as realised on the lake, such as the general direction of wind travel across the lake. Consequently, the results of the assessment will not be reliable.

The wind direction plot submitted by FAL at Deadline 8 shows a reasonable correlation with GSC's observations.

- 4.1.3 The steady-state nature of the CFD simulations allowed the assessment to scale the results to any required ambient condition to be reviewed.

Steady State analysis effectively removes the impact of gusts – which occur naturally in all wind conditions. Whilst it is accepted that gusts are difficult to assess, they are important in assessing sailing conditions, as it is mastering the gusts that provides the challenge in the sport of sailing. Removal of gusts in the analysis at the outset reduces the impact in the results.

Regarding the above paragraph, FAL contends that mastering gusts is one of a number of challenges of sailing, not the sole challenge.

- 4.1.4 While steady state approaches cannot fully capture transient phenomena like gusts, due to the mathematics involved they do not necessarily always produce more 'calm' conditions. For example, a steady-state analysis will predict a corner acceleration occurring in a specific location. However, in reality the unsteady nature of the wind would result in an acceleration zone which moves. Thus, if the actual average wind speed was measured at a specific location, the situation could arise where the CFD prediction of 'mean' speed was higher.
- 4.1.5 The RWDI Wind Assessment Study considered existing and potential future wind conditions at the reservoir when the wind was blowing in any direction between South South-East (SSE) to West (W), which meteorological data shows accounts for c.53% of the time. The proposed WMI development has the potential to affect sailing conditions when the wind is from this direction but would have no significant effect for the remaining c.47% of the time.

The latter sentence is not agreed. Despite GSC requesting assessments to consider the impact of wind from alternative directions in order to understand any impact arising from down-washing effects, the applicant has refused to undertake this analysis. As a result, it cannot be categorically stated that that the proposed development would have no significant effect for the remaining c47% of the time. No evidence has been prepared or submitted by the applicant to permit such a statement to be made.

FAL's specialist wind advisors have already confirmed that down-washing '*is typically more of a tall building concern [i.e. high-rise flats] and RWDI wouldn't expect the proposed warehouses to create significant down-draughting*' (as per minutes of 20th May 2019 meeting).

- 4.1.6 Given the proposed approach, which is considered a reasonable scientific method, a prior site visit would not have provided any benefit to the modelling. The visits on-site have assisted the applicant with understanding the operations / activities at the sailing club and interpreting the effects of the results, although this does not affect the CFD modelling undertaken. It is considered best to use a recognised modelling approach for the consistency of the output, which in this instance is based on 30 years (1995-2015) of wind data, rather than use an arbitrary site visit.

GSC note that this is in fact, 20 years, not 30.

FAL agree and confirm it is 20 years.

The need to provide modelling is recognised in trying to assess the impact of the development.

FAL note the above statement.

The lack of site visits by the applicants' consultants has resulted in over-reliance upon computational modelling of the baseline conditions, which are considered to inaccurately reflect the real baseline conditions.

GSC consider that a site visit, and particularly the opportunity to sail the lake (which was made available), would have provided the consultants with better understanding of the actual conditions, and the baseline modelling could have been adjusted to reflect this more accurately.

GSC specifically note that Wolfson unit report identifies that there are no regulatory parameters or guidelines that exist to assess sailing quality, and that they have applied quantitative parameters to a relatively subjective subject area. It is important, therefore, that the baseline conditions are accurately reported in the first instance.

With respect to the above 3 paragraphs FAL considers that a site visit would not affect the modelling results. For modelling exercises in general it is not necessary for the assessor to physically visit the location. Furthermore, the wind direction plot submitted by FAL at Deadline 8 shows a reasonable correlation with GSC's observations.

4.1.7 The reservoir is not an area of open water with no existing obstacles. In particular, it is significantly screened by trees, which have a profound effect on the sailing quality on the reservoir.

This point has been categorically refuted by the GSC in its submissions. The only area of tree cover that impacts on sailing conditions are those that impact the south-east corner of the reservoir, and these were identified in GSC's original submissions.

Sailing is not currently impacted in the south-western corner of the reservoir by tree cover during different seasons, despite the applicant's assertions to the contrary. This shows that the reliance on Computational Analysis results in a distortion of the real baseline conditions, and a lack of understanding of the baseline as it occurs on the reservoir currently.

FAL's comments were primarily based on comments received from GSC on 8th February 2019 regarding the 'south-western corner' which stated '*The other area isn't used too much as the trees block the wind, the extremes are shallow and the view of boats from the clubhouse (which is often where the rescue boat sets out from) is obscured by the point of land sticking out into the water.*'

- 4.1.8 The current sailing quality of the reservoir is summarised in Figure 6 of the Wolfson report of 24 May 2019 (Document 13.2, REP4-012). For the purposes of the Wolfson assessment, the reservoir was divided into grid points based on 5 metre intervals and an assessment undertaken of the percentage of time for which each grid point achieves "good sailing conditions" when the wind is from the SSE-W. The criteria for good sailing conditions was explained at paragraph 3.1 of the Wolfson report based on an agreed peer review of a similar study undertaken at the former Westferry print works in London.

GSC note that the first criteria provided by the Wolfson report require sailing conditions to be within 3 – 9 knots, and that the Wolfson assessment is undertaken on this basis. This is in contrast to the assumption of the 80th percentile of wind speeds shown in the RWDI report, which, based on subsequent evidence provided by the applicant range between 10.8 knots and 14.77 knots (see GSC Response to Deadline 6, Para 2.9). The Wolfson report has therefore not considered the impact on sailing conditions based on the 80th percentile wind speeds as RWDI determine.

As explained in FAL's Deadline 8 submission, the RWDI study includes wind simulations which are run at a fixed 'reference' wind condition. The 80th percentile speed was chosen as RWDI's reference condition to provide appropriately conservative results. Using this reference condition the resulting mean wind speeds can be scaled up or down to predict mean speeds under different conditions. Then Wolfson Unit used the raw data along with the scaling to determine the impact on sailing under conditions other than the 80th percentile wind speed.

4.1.9 Figure 6 of the Wolfson report shows that the average sailing quality is highly variable and that a large part of the south of the reservoir achieves only poor quality sailing conditions. The Wolfson report explains (paragraph 3.4) that this is not unusual for an inland sailing environment and that it is possible to sail across the entire range of wind directions (paragraph 3.2) and that there are only two small sections of the reservoir where the sailing club have indicated that they tend not to sail (Figure 4). During sailing races, for instance, it is understood that buoys to mark the sailing course can use the full extent of the reservoir.

GSC dispute the applicant's references to "poor" quality sailing quoted from the Wolfson report. The report identifies sailing quality as 19.7%, and explains that this is 'low' but 'not uncommon' for inland sailing environments. It is not clear whether sailing quality would be improved were the 80th percentile wind speeds utilised in the RWDI report identified in 4.1.8 above were to be used.

Notwithstanding the lack of correlation between the RWDI assumptions and those identified by Wolfson, Paragraph 3.4 of the Wolfson report states that sailing quality improves towards the central and northern sections of the reservoir.

Wolfson do not use the word 'poor' anywhere in their assessment. The applicants have again misquoted the report subjectively to assist their case.

FAL acknowledge that 'poor' is not used in assessments. However, conditions do not satisfy 'good' sailing quality criteria and the outcomes of the study are clear.

As stated above, GSC dispute the assumption that sailing cannot take place in the south-west corner of the reservoir due to tree cover. The GSC evidence clearly states that this single line of mature Silver Birch trees does not significantly hamper sailing in that part of the reservoir between the seasons. The assertion is incorrectly reported and interpreted by the applicant.

As noted earlier by FAL there appear to be some contradictions in comments by GSC regarding the south-western corner of the reservoir.

4.1.10 The sailing quality criteria in the Wolfson Unit assessment (REP4-012) are purposely set to a cautious level to include some allowance for other effects.

The allowable wind direction and speed change criteria are conservative, 30% and 20 degrees respectively. The maximum wind speed limit is low to adequate to accommodate the impact of gusts upon novice sailors.

The use of low wind speeds, especially when compared to the 80th percentile as detailed from subsequent evidence (GSC Deadline 7 response, Para 2.9), does little to inspire any confidence that the assessment fully considers the impact of the proposed development on the baseline conditions as reported.

Whilst GSC accept that reduction in wind-speed and significant variation in gusts will make sailing difficult for novice sailors, there has been no assessment of the conditions impacting on experienced sailors, who make up the significant majority of the club membership. We note that novice sailors currently sail in the 80th percentile conditions identified by the RWDI report.

GSC have no confidence that the full impact of the proposed development on sailing conditions has been properly considered.

The RWDI study (REP4-013) includes wind simulations which are run at a fixed 'reference' wind condition. Using this reference condition the resulting mean wind speeds can be scaled up or down to predict mean speeds under different conditions. This is a scientifically valid process used throughout wind engineering, including CFD assessments. The 80th percentile speed was chosen as RWDI's reference condition to provide appropriately conservative results. Then Wolfson Unit used the raw data along with the scaling to determine the impact on sailing under conditions other than the 80th percentile wind speed.

As outlined previously by FAL (point 2.23, Document 16.1, Appendix 2, REP6-011): *"A wider range of wind speeds wouldn't make significant differences to the outcome of the existing assessment. For example, if the sailing quality approach were to be extended to a greater range of speeds, i.e. 3 knots – 16 knots for instance then the relative differences between existing and development scenario conclusions are likely to be similar."*

4.1.11 Nine knots is a 'light' wind for experienced sailors. The Wolfson assessment focused on novices as they would be the cohort least able to adapt to wind condition changes.

GSC note that the 80th percentile wind speeds are between 10.8 and 14.77 knots. Undertaking measurements between 3 and 9 knots as reported in the Wolfson report is therefore an inappropriate assessment of the likely impact of the proposed development on sailing conditions, especially as in reality novice sailors already experience the 80th percentile conditions.

The RWDI study (REP4-013) includes wind simulations which are run at a fixed 'reference' wind condition. Using this reference condition the resulting mean wind speeds can be scaled up or down to predict mean speeds under different conditions. This is a scientifically valid process used throughout wind engineering, including CFD assessments. The 80th percentile speed was chosen as RWDI's reference condition to provide appropriately conservative results. Then Wolfson Unit used the raw data along with the scaling to determine the impact on sailing under conditions other than the 80th percentile wind speed.

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4.1.12 Use of the 80th percentile captures conditions for all sailors, and is reasonably representative of worst case effects.

4.1.13 The approach still incorporated the impact of localised changes of wind direction and speed which would affect both novices or experienced sailors regardless of wind speed. Part of the sailing criteria identified the areas of high variation in speed and direction, which is independent of ambient wind speed, so applicable for all sailors and wind speed ranges.

No assessment of conditions has been taken at the higher level wind speeds utilised in the RWDI report. As a result, no evidence is presented to demonstrate what would happen under such circumstances. The applicants have suggested that the impact remains the same irrespective of wind speed – however, this has not been demonstrated.

The RWDI study (REP4-013) includes wind simulations which are run at a fixed 'reference' wind condition. Using this reference condition the resulting mean wind speeds can be scaled up or down to predict mean speeds under different conditions. This is a scientifically valid process used throughout

wind engineering, including CFD assessments. The 80th percentile speed was chosen as RWDI's reference condition to provide appropriately conservative results. Then Wolfson Unit used the raw data along with the scaling to determine the impact on sailing under conditions other than the 80th percentile wind speed.

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4.1.14 The majority of the reservoir does not currently achieve good sailing conditions when the wind is from the SSE-W, principally due to existing tree cover.

This point has been consistently disputed – the tree cover is minimal and does not impact on sailing conditions on the reservoir.

FAL does not agree that tree cover is minimal and that the existing trees do not impact on sailing conditions. GSC have previously outlined that trees do have an effect. The CFD results (at 3 metres) show reductions in wind speed on the southern boundary which is likely to be at least partly as a result of the existing trees.

4.1.15 In practice, building heights would be restricted to those shown on the parameter plans and the impacts would be less.

Given the various wind shadowing impacts and turbulence that arises from placing an obstacle on an upwind location, it cannot be categorically assumed that the impact would be less.

Despite being requested to do so, the applicant has not undertaken any assessment to demonstrate the impact upon sailing conditions were the buildings to be limited to a lower height in Development Plot A4a.

No evidence has been submitted which shows that the impacts of development of buildings limited to the scope of the parameters plan would be less.

FAL have provided comments at Deadline 8 outlining the market need for buildings of the proposed height.

Due to the uncertainty regarding topographic levels, buildings of up to 34m in height were modelled. It should be noted that buildings of this height are not proposed and are contrary to the parameters plans. However, RWDI confirmed they used these heights to ensure there was a conservative bias adopted in the assessment. As stated, the impacts are likely to be 'less' however FAL accept this is unlikely to be a significant lessening of effects. Although FAL contend that the findings of the assessments haven't identified significant effects across the reservoir as a whole.

5. MATTERS NOT AGREED

- 5.1.1 Matters not agreed relate to some of the findings of the technical work undertaken by RWDI and the Wolfson Unit (Wolfson), which was previously provided to the Sailing Club and submitted to the examination (ref: REP4-012 and REP4-013).
- 5.1.2 Good sailing conditions are only achieved on average for 19.7% of the time across the reservoir as a whole.
- 5.1.3 The average sailing quality is highly variable and that a large part of the south of the reservoir achieves only poor quality sailing conditions. The Wolfson report explains (paragraph 3.4) that this is not unusual for an inland sailing environment and that it is possible to sail across the entire range of wind directions (paragraph 3.2) and that there are only two small sections of the reservoir where the sailing club have indicated that they tend not to sail (Figure 4).
- 5.1.4 A wider range of wind speeds wouldn't make significant differences to the outcome of the existing assessment. For example, if the sailing quality approach were to be extended to a greater range of speeds, i.e. 3 knots – 16 knots for instance then the relative differences between existing and development scenario conclusions are likely to be similar.

GSC note that the Wolfson report has considered wind speeds of between 3 and 9 knots, whereas the 80th percentile wind speeds considered in the

RWDI report range between 10.9 and 14.77 knots. No evidence has been submitted which shows that irrespective of the evident disparity between the two, the impact would be similar.

As outlined previously by FAL (point 2.23, Document 16.1, Appendix 2, REP6-011): *“A wider range of wind speeds wouldn't make significant differences to the outcome of the existing assessment. For example, if the sailing quality approach were to be extended to a greater range of speeds, i.e. 3 knots – 16 knots for instance then the relative differences between existing and development scenario conclusions are likely to be similar.”*

5.1.5 Based on the analysis undertaken by RWDI and Wolfson, FAL considers:

- When compared to the existing conditions (called C1) there would be an impact on the average sailing quality of the reservoir during SSE-W wind conditions of either 3.2% or 4.1%. This impact is modelled to occur for 53% of the time. Overall, therefore, the percentage of the time during which the reservoir achieves good quality sailing conditions on average would be reduced by about 2%.

The interpretation of the mathematics in this statement is incorrect. Wolfson Report shows the proportional reductions in average sailing quality as being reduced from 1.0 at C1, to 0.839 (C2), and 0.79 (C3) (see Wolfson Report Table 1), or from 19.7% to 16.53% and 15.55% respectively. This equates to approximately 20% reduction in either scenario, and therefore exceeds the Wolfson report assumption that an impact of greater than 15% is significant.

The above statement is incorrect. The Wolfson Unit assessment uses criteria outlined in section 3.1 of their report (REP4-012). Then the criteria are applied to each measurement point (on a 5m grid across the reservoir) and wind angle. The results of the analysis are:

- Percentage of time ‘good’ sailing criteria are met for each ‘grid location’; and
- Individual grid locations are combined across the reservoir to provide an average sailing quality.

A percentage time reduction of ‘good’ sailing criteria of 15% (i.e. a reduction based on the total time when the wind is blowing from the SSE-W wind

range) is deemed significant upon a specific 'grid location' across the reservoir.

As outlined in the Wolfson Unit report, the average sailing quality of the existing site (C1) is 19.7%. The sailing quality is reduced for both development options (C2 and C3) with 16.5% and 15.6% average sailing quality respectively.

When compared relative to C1 there is a reduction of 3.2% and 4.1% (i.e. C1 (%) minus C2 or C3 (%)). The percentage reduction (i.e. from 19.7% to 16.5% or from 19.7% to 15.6%) does not exceed the 15% significance threshold (contrary to what is stated by GSC). If the average sailing quality was reduced to 4.6% or lower this would be considered a significant effect to the entire reservoir. Furthermore, the 15% significance value is used to identify specific locations on the reservoir where significant localised effects are predicted.

Both development options outlined in the report are predicted to result in localised reductions (i.e. at specific individual grid locations) in sailing quality which are significant (i.e. in excess of the 15% significance value) resulting from the proposed C2 or C3 options, as can be seen in Figure 14 and Figure 15 of the Wolfson Unit report. The percentage of usable sailing area affected (i.e. exceeding the 15% significance value) is 11.3% and 13.5% for C2 and C3, respectively. However, it is important to note that the 15% threshold relates to a reduction in the time the conditions are not met, but this does not necessarily preclude the ability to sail.

GSC dispute that the reduction in sailing quality would be on average 2% based on the Wolfson report findings.

With regards the above statement that '*the percentage of the time during which the reservoir achieves good quality sailing conditions on average would be reduced by about 2%*' FAL asserts this is correct. Based on the assessments undertaken, the maximum reduction of average sailing quality is 4.1% and this relates to when the winds are from the W to SSE (53% of time). The Applicant considers that the Proposed Development will not affect the reservoir from other wind angles (47% of the time). Therefore, it is considered correct to state that in total the reduction in good sailing conditions on average over a year would be about 2%.

The Applicants note that the prevailing wind is from the south-westerly/westerly direction 53% of the time. The proposed structures will be permanent – therefore the impact will be felt 53% of the time. This does not consider any unassessed impact in relation to wind which may downwash across the reservoir when the wind comes from alternative direction.

Regarding comments with respect to potential ‘downwashing’ FAL’s wind advisors confirm that these effects are typically only experienced immediately adjacent to the building in question and in this case would be very unlikely to reach the reservoir.

This conclusion does not consider the impact of the difference between the 80th percentile wind speeds identified in the RWDI report, and the wind speeds assessed in the Wolfson report. It is not clear whether the impact would be more significant were this to be properly assessed.

The RWDI study (REP4-013) includes wind simulations which are run at a fixed ‘reference’ wind condition. Using this reference condition the resulting mean wind speeds can be scaled up or down to predict mean speeds under different conditions. This is a scientifically valid process used throughout wind engineering, including CFD assessments. The 80th percentile speed was chosen as RWDI’s reference condition to provide appropriately conservative results. Then Wolfson Unit used the raw data along with the scaling to determine the impact on sailing under conditions other than the 80th percentile wind speed.

As outlined previously by FAL (point 2.23, Document 16.1, Appendix 2, REP6-011): *“A wider range of wind speeds wouldn’t make significant differences to the outcome of the existing assessment. For example, if the sailing quality approach were to be extended to a greater range of speeds, i.e. 3 knots – 16 knots for instance then the relative differences between existing and development scenario conclusions are likely to be similar.”*

- In none of the affected areas would sailing conditions be reduced below those which are currently experienced on the majority of the lake.

The Wolfson Report does not draw this conclusion. It specifically identifies that there will be an “overall reduction in sailing quality” in its first sentence of Section 4. It then goes on to state that the most impacted areas of the

reservoir are the central and northern portions of the reservoir, where previously the report states that better sailing conditions are achieved. The above statement therefore inaccurately records the findings of the Wolfson report.

FAL do not understand the above statement.

- The level of impact is described in the Wolfson report as “modest” (paragraph 4) and a comparison of Figures 6, 7 and 8 demonstrate that the general sailing character of the reservoir would not be significantly changed.
- The report confirms that sailing will still be possible in the affected areas (page 4) and identifies that the reservoir would continue to be sailable so that, for instance, there would not be expected to be any significant change in the small areas of the reservoir shown in figure 4 which sailors tend to avoid.

GSC accept that the report confirms that sailing would still be possible in the affected areas. However, it does not accept that the report concludes that there would not be expected to be any significant change over small areas of the reservoir.

The report identifies that the impact on novice sailors will result in conditions being more challenging as a result of reduced wind speeds, making transition difficult, and significant variations between two points making navigation challenging.

The report fails to consider what impact this will have on experienced sailors, who make up the majority of the GSC membership. In effect, reduced wind speeds will not generate any “challenge” to those sailors, as the conditions become more akin to “floating” rather than “sailing”. As a result, experienced sailors are much more likely not to sail, due to the reduced level of “challenge”, and therefore enjoyment of the sport.

The applicants have determined that the wind is from a south-westerly/westerly direction 53% of the time. The effect of the proposed development would be permanent, and therefore sailing quality is effectively reduced for all sailors for this amount of time.

An impact on 53% of the time (as a minimum) that sailing is impacted is significant. For the reasons highlighted above it is highly likely that existing Club members, both novice and experienced, would be deterred from sailing. In addition, the ability of the Club to run successful RYA courses would be significantly reduced, and therefore the ability to attract new members would also suffer.

In such a scenario, the long-term future of the Club, and the opportunities generated for water-sport based leisure and recreation is threatened.

GSC do not consider the impact of the proposed development to be “modest”

The Applicant has undertaken a best practice and proportionate assessment of the effects of the proposals on the sailing club using experienced and well qualified consultancies adopting a methodology which has been accepted elsewhere and which gives a good representation of sailing conditions.

That assessment shows that the reservoir is relatively constrained by its size, location and by tree screening such that sailing conditions are compromised to some extent, so that this is not a high quality sailing reservoir.

Nevertheless, the club is popular with its members, who sail the whole reservoir notwithstanding these limitations and notwithstanding the availability of alternative sailing opportunities on more open water at an alternative club very close by.

The impacts of the WMI development have been assessed as modest – no part of the reservoir would be incapable of sailing and the character of sailing at the reservoir would not significantly change.

The proposed development sets taller buildings back from the reservoir and steps height down towards the reservoir. These measures are proportionate but further constraints on height would not be appropriate given their limited likely effects and the lack of evidence that further changes would actually benefit sailing conditions at the reservoir where variability of wind conditions can be a benefit rather than adverse.

There is no evidence that the club’s future is threatened by the development and no case to be made that the public interest would be affected given the

immediate availability of an alternative sailing club with more open water very close to the GSC.

6. CONCLUSION

- 6.1.1 This statement sets out a record of the sailing issues of interest to Greenforge Sailing Club and the extent to which these are agreed with Four Ashes Limited.
- 6.1.2 It sets out the general circumstances surrounding each issue and the position reached at the time of writing.

Applicant's Response to the Collective of Parish Councils Bird Survey Data

The West Midlands Rail Freight Interchange Order 201X

Four Ashes Limited

WEST MIDLANDS INTERCHANGE

APPENDIX 3

RESPONSE TO COLLECTIVE OF PARISH COUNCILS BIRD SURVEY DATA (REP7-044)

1 Introduction

- 1.1 The Applicant notes that the Collective of Parish Councils (CoPC) only presented the bird survey data at Deadline 7 of the Examination notwithstanding the survey findings date from November 2016 and February 2017. It is assumed that this survey data could have been presented earlier in the Examination.
- 1.2 Furthermore, whilst it isn't clear in the response, the Applicant assumes that the on-site bird mitigation area (Figure 3.5, Document 6.2, ES Technical Appendix 10.4, REP5-033) is being referenced from the described '2.5 hectares' as the area allocated to wildlife. The proposed green infrastructure will extend to approximately 107 hectares in total (Paragraph 4.17, Document 6.2, Environmental Statement (ES) Chapter 4, APP-20). In addition, 12 hectares of off-site farmland bird mitigation land is proposed to be provided at the commencement of the proposed development (paragraph 3.7.13, Document 6.2, ES Technical Appendix 10.4, REP5-033) which will be secured by the Bird Mitigation Obligation (see Agreed Draft, Document 7.7E, REP5-028).

2 Scope and Methodology

- 2.1 Very little supporting information is provided which outlines the scope and methodologies adopted for the referenced bird surveys undertaken on behalf of the CoPC. The ExA will be aware that the Applicant's bird survey data is supported by the following (which is absent in the data provided by the CoPC):
- Date, specific time of the surveys and weather conditions (refer to Tables 4.19 and 4.20 of Document 6.2, ES Technical Appendix 10.1, APP-087). The data provided by the CoPC simply refers to one day in November 2016 and February 2017 over an unspecified 4-hour period.
 - Survey methodology adopted (refer to paragraphs 4.4.5 to 4.4.13, Document 6.2, ES Technical Appendix 10.1, APP-087). The data provided by the CoPC has limited detail regarding the survey methodology adopted.
 - A full list of the British Trust for Ornithology (BTO) two letter codes of the bird species recorded and associated activity codes, together with their Latin names and observations of numbers and behaviour noted is provided in Annex 10.1.4 of ES Technical Appendix 10.1 (Document 6.2, APP-087). Figures 10.1.422 to 10.1.470 (Document 6.2, ES Technical Appendix 10.1, APP-087) present species maps of wintering bird distribution. The survey data provided by the CoPC is simply a list of bird sighting with no details outlining the survey area and the location of the sightings is not identified.

3 Survey Findings

- 3.1 The data provided by the CoPC includes many bird species which are identified in the Applicant's assessment. However, the results do not and would not be expected to exactly mirror the Applicant's data as there is a general variation in bird survey data (as they comprise highly mobile species and the context of the surrounding landscape has similar habitats present to those on-site). The birds recorded on-site are not likely to be restricted to the Site. There are instances where small numbers of wintering birds are

identified within the CoPC data and were not recorded in the Applicant's assessment e.g. yellowhammer. Conversely, the Applicant's wintering bird assessment identified numerous birds not recorded in the CoPC data.

- 3.2** The Applicant is confident that the wintering bird survey results (Document 6.2, ES Technical Appendix 10.1, APP-087) present an accurate and robust data set. As noted above, a general variation in bird survey data is to be expected but the findings are not dissimilar. If the survey data provided by the CoPC could be verified as accurate, the Applicant considers that it wouldn't materially alter the findings of the ES.

4 Conclusion

- 4.1** The survey data provided by the CoPC, for the reasons outlined above, are not considered to comprise robust survey data. The scope and methodology of the surveys aren't clear based on the information provided. Even if the data are considered to comprise robust survey data, the findings don't alter the Applicant's assessment with respect to bird species which are already comprehensively considered in ES Chapter 10 (Document 6.2, APP-030).

21st August 2019