

## Updated Statement of Reasons (Clean)

Eversheds Sutherland (International) LLP and Quod

The West Midlands Rail Freight Interchange Order 201X

21 August 2019



**The Infrastructure Planning (Applications: Prescribed Forms and Procedure)  
Regulations 2009 (as amended)**

**The West Midlands Rail Freight Interchange Order 201X**

**STATEMENT OF REASONS**

**Eversheds Sutherland (International) LLP and Quod**

**Pursuant to Regulation 5(2)(h)**

**Document 4.1C**

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## 1. Introduction

- 1.1 This statement of reasons relates to an application made by Four Ashes Limited (“the Applicant”) to the Planning Inspectorate under Section 37 of the Planning Act 2008 for a Development Consent Order (“DCO”) to authorise the construction, operation and maintenance of a rail freight interchange (including warehousing and associated highway works) on land west of Junction 12 of the M6 motorway, immediately south of the A5 trunk road in southern Staffordshire (“the Application”).
- 1.2 This statement has been prepared in compliance with the requirements of Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) and in accordance with the guidance issued by the (then named) Department for Communities and Local Government Guidance “Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land” (September 2013) (“the CLG Guidance”).
- 1.3 This statement is required to support the Application because the DCO would authorise:
- 1.3.1 the compulsory acquisition of:-
- (a) land;
  - (b) minerals interests;
  - (c) rights; and
  - (d) rights over land
- 1.3.2 the extinguishment, interference, suspension or overriding of existing rights over land; and
- 1.3.3 the use and possession of land temporarily.
- 1.4 The land proposed to be the subject of compulsory acquisition and temporary possession is referred to in this statement as the “Order Land”. Land inside the boundary of the DCO, shown by a red line on the Order Limits and Parish Boundaries Plan (Document 2.4, APP-189), is called the “Order Limits”.
- 1.5 This statement forms part of a suite of Application documents. It should be read alongside and is informed by those documents. In particular, whilst

considering this statement of reasons, the following Application documents should also be considered:

- 1.5.1 The Funding Statement (Document 4.2, APP-006);
- 1.5.2 The Land Plans (showing the land which it is anticipated will be subject to powers of compulsory acquisition and temporary possession) (Document series 2.1, APP-159 - APP-171));
- 1.5.3 The Book of Reference (Document 4.3B);
- 1.5.4 The Planning Statement (Document 7.1A, APP-252 and APP-253);
- 1.5.5 The Statement of Economic Benefits (Document 7.1B, APP-254);
- 1.5.6 The Alternative Sites Assessment (Document 7.2, APP-255); and
- 1.5.7 The Updated Market Assessment (Document 7.4A, REP2-004).

## 2. Summary

2.1 This statement explains why it is necessary and justifiable for the DCO to contain compulsory acquisition and temporary possession powers which relate to the Order Land.

2.2 The following areas are addressed in this statement:

2.2.1 **Section 3** contains the following:

- 2.2.1.1 A description of the Order Land and its location;
- 2.2.1.2 An explanation of the Land Plans;
- 2.2.1.3 An explanation of the current status (at the time of submission of the Application) of discussions with the relevant parties;
- 2.2.1.4 The Applicant's purpose in seeking to acquire rights over land including brief details of the wider scheme for which development consent is sought; and
- 2.2.1.5 The Applicant's consideration of those persons considered to fall within Category 3 (as defined in section 57 of the Planning Act 2008).

2.2.2 **Section 4** sets out the justification for seeking powers of compulsory acquisition including reference to how regard has been had to the



provisions of Article 1 of the First Protocol to the European Convention on Human Rights together with details of the rationale behind the development.

2.2.3 **Section 5** addresses compliance with the relevant CLG Guidance.

2.2.4 **Section 6** contains any other information which may be of interest to persons who are or may be affected by the DCO.

### **3. Scope of acquisition and purpose in seeking to acquire land and rights**

3.1 The land required for the development is situated to the west of junction 12 of the M6 motorway and immediately south of the A5 in south Staffordshire and extends to approximately 297 hectares. A full description of the Application site can be found in chapter 4 of the Environmental Statement accompanying the Application (Document 6.2, APP-020).

3.2 The DCO seeks consent for the construction, operation and maintenance of a rail freight interchange (including warehousing and associated highway works). The land on which the rail freight interchange and warehousing will be located is referred to as the “Main Site” comprising Works Numbers 1, 2, 3 and 6, described in Schedule 1 of the DCO.

3.3 The DCO will, amongst other things, authorise the construction, operation and maintenance of, in summary<sup>1</sup> (the “Proposed Development”):-

3.3.1 An intermodal freight terminal with direct connections to the West Coast Main Line, capable of accommodating up to 10 trains per day and trains of up to 775m long, including container storage, Heavy Goods Vehicle parking, rail control building and staff facilities;

3.3.2 Up to 743,200 square metres of rail served warehousing and ancillary service buildings;

3.3.3 New road infrastructure and works to the existing road infrastructure;

3.3.4 Demolition of existing structures and earthworks to create development plots and landscape zones;

3.3.5 Reconfiguring and burying of existing overhead power lines and pylons; and

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<sup>1</sup> For further detail please see draft DCO Schedule 1 (Document 3.1E)

- 3.3.6 Strategic landscaping and open space, including alterations to public rights of way and the creation of new ecological enhancement areas and publicly accessible open areas.
- 3.4 The extent of compulsory acquisition and temporary possession powers sought is explained in respect of each parcel referred to on the Land Plans, in the table at paragraph 3.26 below and in column (2) of Part 1 of the Book of Reference, which also refers to the relevant articles in the draft DCO.
- 3.5 In some of the protective provisions in Schedule 13 of the DCO the undertaker has committed not to exercise some or all of the compulsory acquisition powers within the DCO in respect of certain assets.

### **Explanation of Land Plans and Applicable Powers under the DCO**

#### Land shown tinted pink on the Land Plans

- 3.6 There are several parcels of land shown tinted pink on the Land Plans. These parcels are to be subject to compulsory acquisition of the freehold, leasehold, tenant and/or occupier interests and acquisition of mines and minerals interests as well as any third party rights or the creation of new rights pursuant to articles 24 and/or 25 of the DCO as the case may be. This land will also be subject to the general powers in Part 5, such as the power to override or extinguish private rights where they are inconsistent with the authorised development.
- 3.7 A small number of the pink parcels are existing adopted highway (Gravelly Way). This land is proposed to be compulsorily acquired because it is to be stopped up as part of the authorised development, with the new A5/A449 link road to replace it. Acquisition is required in order to ensure that the Applicant retains the ownership once the highway is stopped up in order to guarantee the deliverability of the new highway works and associated infrastructure.
- 3.8 With regard specifically to the new highway arrangements ensuring continued access to Four Ashes industrial area (now known as Gailey Park), this land is the subject of compulsory acquisition powers to enable the title to be cleansed, to ensure there are no restrictions on the delivery of the infrastructure, as explained at paragraph 3.21 below.

#### Land shown tinted blue on the Land Plans

- 3.9 These are parcels in respect of which the compulsory acquisition powers sought are limited to the creation of new rights pursuant to article 25 of the draft DCO. This land will also be subject to the general powers in Part 5 such as the power to override private rights where they are inconsistent with the

authorised development. An example of this is where rights are needed to carry out the undergrounding of electricity lines and erect a new 132kv tower and thereafter access and maintain that tower (parcel 87) the Applicant is seeking only the creation of new rights, to minimise the extent of compulsory acquisition in accordance with general compulsory acquisition principles.

Land shown tinted green on the Land Plans

- 3.10 There are several parcels on the Land Plans which are shown tinted green. These are parcels over which the Applicant only seeks powers to acquire existing rights pursuant to article 25 of the draft DCO or to override third party rights or powers to extinguish, suspend or interfere with any third party rights pursuant to articles 27 and/or 28 of the draft DCO. For example, there are various third party rights in land owned by the Canal and Rivers Trust (“CRT”) around the access to Four Ashes (Gailey Park) industrial area. Whilst it is not intended to acquire the freehold interest held by CRT, the Applicant needs to ensure that any such third party rights do not impede the deliverability of the revised highway access arrangements. It is only intended that these third party rights would be acquired if they are inconsistent with the authorised development, and the Applicant requires the ability to extinguish, suspend or interfere with those rights should that be the case.

Land shown tinted yellow on the Land Plans

- 3.11 Land shown tinted yellow on the Land Plans is proposed to be subject to powers of temporary possession pursuant to article 35 of the draft DCO. This only applies to parcels 87a and 87b, being land required for a temporary compound during the construction of the pylon works to the north of the A5 (Works No. 9a).

Land shown hatched pink on the Land Plans

- 3.12 There are several parcels shown hatched pink on the Land Plans. These parcels are subject to a tenancy and/or rights in favour of Staffordshire Sand and Gravel (“SSG”) to extract mines and minerals. The Applicant is in discussion with SSG with regard to the termination of its interest. Negotiations are ongoing and SSG is aware that its interest is included in the compulsory acquisition proposals until the voluntary agreement has been finalised. Acquisition is required for the cessation of the extraction and processing of minerals and any access rights in respect thereof, all of which would be inconsistent with the development.

### Land shown tinted orange on the Land Plans

- 3.13 There are two parcels of land shown tinted orange on the Land Plans. These parcels are also subject to the SSG minerals interests, the acquisition of which is required as explained at paragraph 3.12 above. In addition, the parcels are proposed to be subject to the creation of new rights pursuant to article 25 of the DCO, for the carrying out of revised access arrangements to Avenue Cottages (Works No. 11).

### Other land

- 3.14 There are some parcels of land shown on the Land Plans which are not proposed to be subject to powers of compulsory acquisition, but which are included in Part 1 of the Book of Reference. These parcels are:

3.14.1 land over which the Applicant has secured voluntary agreement and does not intend to acquire any new or existing rights;

3.14.2 land which is existing adopted public highway over which the Applicant proposes only to carry out highway works under Part 3 of the DCO; and

3.14.3 land which is owned by Network Rail and the Canals and Rivers Trust which the Applicant has agreed not to compulsorily acquire and which will be the subject of agreement with those parties, currently under discussion.

- 3.15 These parcels do not have any delineation on the Land Plans other than a parcel number. They are included in Part 1 of the Book of Reference because there are interests in the subsoil and therefore, in strict accordance with the wording of the Planning Act 2008 and the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended), these persons are “interested in the land” and the land will be subject to “rights to use the land”. These interests will not be affected. These parcels therefore are not listed in the table at paragraph 3.26 below.

### **Other powers under the DCO**

- 3.16 The power for the extinguishment of private rights over land which is subject to compulsory acquisition, pursuant to article 27 of the draft DCO, will apply to all Order Land (being land which is subject to powers under articles 24 and/or 25).

- 3.17 The power for the overriding of, or extinguishment, suspension or interference with any third party rights contained in article 28 of the draft DCO will apply to

all land within the Order Limits and is applicable only to such rights as are inconsistent with the authorised development.

- 3.18 The power for the temporary use of land for the maintenance of the authorised development (article 36) will apply to all land within the Order Limits within the terms set out in that article.

### **Main Site**

- 3.19 The Land Plans and Book of Reference demonstrate that the Applicant has, through voluntary agreement, secured control over the freehold interest in the majority of the Main Site. The Applicant is in discussions with the remaining owners and occupiers with a view to concluding voluntary agreements with those parties and each agreement is being drafted to take into account the particular circumstances of those owners/occupiers. Such negotiations inevitably take some time to conclude and whilst those agreements are being progressed, the Applicant seeks compulsory acquisition powers over these remaining parcels. The current status of discussions with the relevant parties is explained below and the Compulsory Acquisition Status Report submitted for Deadline 8 (Document 18.2) contains further detail on those discussions as at 21 August 2019. Previously it had been intended to remove parties with whom voluntary agreement has been reached, however, on reflection it is felt prudent to retain those parcels within the compulsory acquisition as protection against any default in performance of the option/contract. The Applicant is committed not to exercise such powers if the agreement is honoured:

3.19.1 **Parcel 10 (field adjacent to railway):** the Applicant has concluded the agreement with the landowner;

3.19.2 **Parcels 11, 14, 18, 61a and 62 (land owned by SI Group-UK Ltd):** the Applicant has concluded a voluntary agreement with the landowner for these parcels and it is intended to acquire the land pursuant to that agreement. However, given the critical nature of the location of those parcels in the context of the Proposed Development (location of the rail terminal), the Applicant seeks compulsory acquisition powers in the event that all or any element of that agreement cannot be properly exercised, as provided for in the protective provisions in Part 6 of Schedule 13 of the DCO (which are agreed with the owner, (SI Group)). The owner is aware that such powers are sought;

3.19.3 **Parcels 12 and 13 (Fir Tree Cottage and adjacent land off A449):** the Applicant has agreed terms with the landowner and is finalising the detail legal agreement;

- 3.19.4 **Parcels 23a, 23b and 23c and 112 (communications masts):** compulsory powers are sought to enable the relocation of the existing communications masts within the development site, as the existing lease terms are not consistent with the development timetable. Discussions are progressing with the mast operators with a view to relocation of the masts by agreement;
- 3.19.5 **Parcels 52, 53, 54 and 55 (land, house and business at the end of Croft Lane):** the Applicant has been in discussions with the various owners of these parcels for some time. Negotiations have not been straightforward not least because some of the land has been in probate and there are a number of different interests to capture. Parcels 53 and 55 relate to an existing MMS Gas facility with a sole proprietor of parcel 55 (with rights over parcel 54), whilst parcels 52, 53 and 54 relate to a residential property which is partially owned by the same party as parcel 55, but in which there are also further interests. Negotiations are still continuing with a view to securing a voluntary agreement;
- 3.19.6 **Parcel 56 (Gravelly Way Barn):** The Applicant has reached agreement on the legal documentation with the landowners of this parcel but the agreement remains still subject to the mortgage lender's consent;
- 3.19.7 **Parcel 57 (The Stables, adjacent to Gravelly Way Barn):** The Applicant has concluded an agreement with the landowners of this parcel;
- 3.19.8 **Parcel 95 (property known as Clovelly):** The Applicant has reached agreement on the legal documentation with the landowners of this parcel but the agreement remains still subject to the mortgage lender's consent;
- 3.19.9 **Parcels 97 and 98 (in respect of private access road off A5):** The owner of these parcels is also the owner of other parcels in the Order Land (parcels 12, 13, 106, 108) and discussions with the owner therefore cover all parcels. Acquisition is required for the cessation of the extraction and processing of minerals and any access rights in respect thereof, all of which would be inconsistent with the development. The Applicant is in discussion with the tenant (SSG) in respect of the termination of its interest, and SSG is aware that its interest is included in the compulsory acquisition proposals. In addition, rights are required over these parcels to deliver the altered access arrangements for Avenue Cottages and the Applicant

considers that a voluntary agreement to obtain these rights can be concluded;

- 3.19.10 **Parcels 101, 102, 103, 111, 112 and 113 (fields and properties to north and south of Vicarage Road):** The Applicant has concluded an agreement with the owner and that agreement includes a provision that compulsory acquisition powers may be retained in respect of these parcels ;
- 3.19.11 **Parcels 106 and 108 (Woodside Farmhouse and access off Vicarage Road):** As explained above, the owner of these parcels is also the owner of other parcels in the Order Land (parcels 12, 13, 97 and 98) and discussions with the owner therefore cover all parcels. The Applicant has agreed terms with the landowner and is finalising the detail of the legal agreement. The premises are subject to a lease which the Applicant understands contains a break option on a rolling basis, providing a means of termination pursuant to terms agreed under that lease. It is therefore not currently envisaged that the current tenant will be subject to compulsory acquisition, nevertheless, the Applicant seeks compulsory acquisition powers until such time as a voluntary agreement is in place;
- 3.19.12 **Parcel 117 (Land to the north of Straight Mile Farm and to the east of Ash House):** As explained in the Applicant's Responses to Other Parties' Deadline 7 Submissions (Document 18.1), following receipt of confirmation from Mr & Mrs Wilkes that they no longer wish to proceed with the voluntary agreement on the terms agreed (which specifically included the acquisition and retention residence and creation of a curtilage), the Applicant has now removed the residence from the compulsory acquisition and from the "authorised development". The Land Plans (Document 2.1D), Book of Reference (Document 4.3B) and Works Plans (Document series 2.2) have been updated to reflect this, carving out the residence from the plans. The remainder of parcel 117 is, however, still required for the purpose set out in the table at paragraph 3.26 below;
- 3.19.13 **Parcels 119, 120, 121, 122 and 123 (Ash House and surrounding land off Vicarage Road):** The Applicant has concluded the agreement with the owner of these parcels;
- 3.19.14 **Parcel 124 (Stoney Brook property, off Vicarage Road):** The Applicant has concluded an agreement with the landowners of this parcel;

- 3.19.15 **Parcel 125 (Mile End Cottage at the junction of Vicarage Road and Straight Mile):** Heads of terms have been agreed with the landowners for this parcel and the detail of the agreement is being finalised.

### **Minerals Interests**

- 3.19.16 **Parcels 94, 96, 97, 98, 100, 101, 102, and 104 (Minerals Interests):** These parcels are subject to a tenancy and/or rights in favour of Staffordshire Sand and Gravel (“SSG”) to extract mines and minerals. As explained at paragraph 3.12 above, the Applicant is in discussion with SSG with regard to the termination of its interest. Negotiations are ongoing and SSG is aware that its interest is included in the compulsory acquisition proposals until the voluntary agreement has been finalised. Acquisition is required for the cessation of the extraction and processing of minerals and any access rights in respect thereof, all of which would be inconsistent with the development.

### **Highway Works**

- 3.20 As explained at paragraph 3.14.2 and 3.15 above, where the land is existing public highway, the Applicant is not seeking any powers of compulsory acquisition, save **parcels 17, 19, 21 and 61 (existing Gravelly Way)** which are proposed to be stopped up as part of the authorised development. The freehold of this land is sought in order to ensure that the Applicant retains the ownership following the stopping up, in order to guarantee the deliverability of the new access arrangements to Four Ashes (Gailey Park) industrial area but also so that the land which is existing highway at the moment (Gravelly Way), can be delivered as part of the relevant works following the stopping up that road and its replacement with the A5/A449 link road.
- 3.21 **Parcels 58, 59a, 59b, 60, 61a, 63, 64, 67, 68, 69, 70, 71 and 72 (access to Four Ashes industrial area)** are all proposed to be subject to compulsory acquisition (either the freehold (parcels 61a, 64, 67, 68, 69, 70) or third party rights (parcels 58, 59a, 59b, 60, 63, 71 and 72)) in order to guarantee the deliverability of the new highway arrangements. The title position for these parcels is very complex due largely to the number of third party rights (some historical) of access and in respect of services. Discussions with most of these parties have been ongoing for quite some time, and have more recently commenced with the remaining two parties. The Applicant continues to progress discussions with all parties. The Applicant also proposes protective provisions for these parties (see Part 5 of Schedule 13 to the draft DCO) and intends to pursue these voluntary arrangements. Parcels 58, 59a, 59b, 60, 63,



71 and 72 are owned by CRT. As explained in paragraph 3.10 the Applicant is not seeking to acquire the freehold of any land owned by CRT, merely to acquire any third party rights over that land, and only in the event that such rights may inhibit the delivery of the works.

### **Northern Pylon Works**

- 3.22 **Parcels 87, 87a and 87b (land north of A5):** Permanent rights are sought over parcel 87 to allow the construction operation and maintenance of revised pylon arrangements, following the carrying out of works to place the existing overhead electricity lines underground. This land is required for the new “northern” pylon (being the pylon immediately north of the A5. Land either side of this parcel (parcels 87a and 87b) are required temporarily for compound works. The Applicant has been able, through its land referencing exercise and placing of site notices, to ascertain the reputed owner of this land and is therefore engaging with the owner to secure the appropriate rights. Progress is slow and therefore the Applicant must seek powers of acquisition to create the necessary rights. The Applicant has been in discussion with Western Power Distribution (with whom the ‘undergrounding’ of the electricity lines must be undertaken) to ensure that the appropriate areas and rights are secured for these works.

### **Pipelines over the Staffordshire and Worcestershire Canal**

- 3.23 **Parcels 74, 76 and 78:** These parcels are three existing pipelines over the Canal. The pipelines are to be removed as part of the Applicant’s Canal enhancement strategy agreed with CRT. The Applicant has included these parcels in its agreement with the owners of the pipes themselves (being S.I. Group-UK Limited, the owner of parcels 11, 14, 18 and 62) but for the same reasons explained at paragraph 3.19.2 the Applicant is seeking compulsory powers to create rights to remove these pipelines to cover the potential scenario whereby it is prevented from exercising the agreement, in order to ensure that the Canal enhancement strategy can be delivered.

### **Purpose for which land is required**

- 3.24 A detailed description of the land, and purpose for which the interest in each parcel is required, is contained in Part 1 of the Book of Reference.
- 3.25 Paragraph 3.26 below contains a table summarising the land/rights required. Further detail on the purpose for which the land/rights may be acquired is in Schedule 1 of the draft DCO which describes the development in detail.

3.26 **Table summarising purpose of compulsory acquisition:**

<b>Parcel Number on Land Plan</b>	<b>Purpose for which land/right may be acquired</b>
10	New railway line to connect with the existing West Coast Main Loop railway line (Works No. 1) and structural landscaping and earthworks including the creation of screening bunds, acoustic fencing, boundary treatments and habitat creation (Works No. 6).
11	New railway line to connect with the existing West Coast Main Loop railway line (Works No. 1) and structural landscaping and earthworks including the creation of screening bunds, acoustic fencing, attenuation ponds, boundary treatments and habitat creation (Works No. 6).
12 and 13	Earthworks including the creation of screening bunds, attenuation ponds, boundary treatments and habitat creation (Works No. 6).
14	New railway line to connect with the existing West Coast Main Loop railway line (Works No. 1), rail freight terminal (Works No. 2), 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 and the removal and replacement of pipework and boreholes associated with the remediation strategy for the SI Land (Works No. 3) (Zone A1), the A5/A449 link road at the arm of the roundabout with the A449 (Works No. 4), structural landscaping and earthworks including the creation of screening bunds, attenuation ponds, boundary treatments and habitat creation (Works No. 6).

<b>Parcel Number on Land Plan</b>	<b>Purpose for which land/right may be acquired</b>
17	Eastern part of the new four arm roundabout on A449 at the junction with Gravelly Way connecting to the A5/A449 link road (Works No. 4).
18	New railway line to connect with the existing West Coast Main Loop railway line (Works No. 1), rail freight terminal (Works No. 2), rail served warehousing (Works No. 3) (Zone A1), the A5/A449 link road at the arm of the roundabout with the A449 (Works No. 4), structural landscaping and earthworks including the creation of screening bunds, attenuation ponds, boundary treatments and habitat creation (Works No. 6).
19	The stopping up of Gravelly Way to enable: the new railway line to connect with the existing West Coast Main Loop railway line (Works No. 1), rail freight terminal (Works No. 2) and the A5/A449 link road (Works No. 4).
21	Works to accommodate the removal of the masonry bridge (part of existing Gravelly Way) over the West Coast Mainline (Works No. 1).
23a and 23b	The removal of telecommunications masts as part of Works No. 3.
23c	The removal and relocation of telecommunications mast as part of Works No. 1.
52	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 A3), structural landscaping and earthworks including the creation of screening bunds, habitat creation and Croft Lane Community Park (Works No. 6).

<b>Parcel Number on Land Plan</b>	<b>Purpose for which land/right may be acquired</b>
53, 54 and 55	Structural landscaping and earthworks including the creation of screening bunds, habitat creation and Croft Lane Community Park (Works No. 6).
56 and 57	Conversion of Gravelly Way Farm buildings for estate management offices, training facilities, meeting rooms, amenity and welfare facilities with ancillary parking and landscaping and the provision of building for the storage of estate management plant and machinery and related workshop facilities (Works No. 8).
58	Access to Works No. 8, footpath proceeding under the A5/A449 link road to connect with canal towpath being part of the revised access arrangements to Four Ashes (Gailey Park) industrial area (Works No. 10b).
61a, 68, 69, 70	The provision of revised access arrangements to Four Ashes (Gailey Park) industrial area including pedestrian and cycle arrangements (Works No. 10b) and associated landscaping (Works No. 6).
59a, 63, 67	The provision of revised access arrangements to Four Ashes (Gailey Park) industrial area including pedestrian and cycle arrangements (Works No. 10b).
59b, 60, 64, 71 and 72	Landscaping and works associated with the revised access arrangements to Four Ashes (Gailey Park) industrial area (Works No. 6).
61	The provision of revised access arrangements to the SI Facility (Works No. 10a), the provision of revised access arrangements to Four Ashes (Gailey Park) industrial area including pedestrian and cycle arrangements (Works No. 10b) and associated landscaping (Works No. 6).
62	The provision of revised access arrangements to the SI Facility (Works No. 10a), and associated landscaping (Works No. 6).

<b>Parcel Number on Land Plan</b>	<b>Purpose for which land/right may be acquired</b>
74, 76 and 78	Removal of pipelines and cement bridge over the canal (Works No. 6).
87	New rights for northern pylon works (Works No. 9a).
87a and 87b	Temporary compound area for northern pylon works (Works No. 9a).
94	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 A4a), the A5/A449 link road (Works No. 4), private estate roads and infrastructure (Works No. 5), structural landscaping and earthworks including the creation of screening bunds, boundary treatments and habitat creation (Works No. 6) and the provision of revised access arrangements to Four Ashes (Gailey Park) industrial area including pedestrian and cycle arrangements (Works No. 10b).
95	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 A4a), the A5/A449 link road (tie in to the A5) (Works No. 4), structural landscaping and earthworks including the creation of screening bunds, boundary treatments and habitat creation (Works No. 6).
96	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,

<b>Parcel Number on Land Plan</b>	<b>Purpose for which land/right may be acquired</b>
	<p>container storage, on plot landscaping and bunding, signage (Works No. 3) (Zones A4a and A5a), private estate roads and infrastructure (Works No. 5), structural landscaping and earthworks including the creation of screening bunds, boundary treatments and habitat creation (Works No. 6) and highway works including a new roundabout at Vicarage Road (Works No. 7).</p>
97 and 98	<p>Alteration to private access road (Works No. 11) and tie in to A5 (Works No. 7).</p>
100	<p>Retention of existing woodland, structural landscaping and earthworks including the creation of screening bunds, boundary treatments and habitat creation (Works No. 6) and 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 A4a).</p>
101 and 102	<p>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 A5a), structural landscaping and earthworks including the creation of screening bunds, retention of existing trees and woodland, boundary treatments and habitat creation (Works No. 6).</p>
103	<p>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,</p>

<b>Parcel Number on Land Plan</b>	<b>Purpose for which land/right may be acquired</b>
	<p>container storage, on plot landscaping and bunding, signage (Works No. 3) (Zone A5a), structural landscaping and earthworks including the creation of screening bunds, retention of existing trees and woodland, boundary treatments and habitat creation (Works No. 6) and tie in to new roundabout on Vicarage Road (Works No. 7).</p>
104	<p>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) (Zones A4b, A5b and A6), private estate roads and infrastructure (Works No. 5), retention of Calf Heath Wood, structural landscaping and earthworks including the creation of screening bunds, boundary treatments and habitat creation (Works No. 6) and highway works including a new roundabout at Vicarage Road and footpath adjacent to Zone A6 (Works No. 7).</p>
106 and 108	<p>Structural landscaping and earthworks including the creation of screening bunds, retention of existing trees and woodland, boundary treatments and habitat creation (Works No. 6).</p>
111, 113	<p>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 A7a), 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).</p>

<b>Parcel Number on Land Plan</b>	<b>Purpose for which land/right may be acquired</b>
112	The removal of telecommunications masts as part of Works No. 3.
117	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) and southern pylon works (Works No. 9b).
119, 120 and 121	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 A7c), and 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).
122, 123, 124 and 125	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).

3.27 The Applicant has been in dialogue with most of the landowners affected by the proposed development for a significant period of time and has sought to



acquire interests by agreement before seeking powers of compulsory acquisition (thereby following general CPO guidance).

- 3.28 An explanation of the current position with the owners/beneficiaries of the relevant interests is set out in paragraphs 3.19 – 3.23 above and in the Compulsory Acquisition Status Report submitted for Deadline 6 (Document 16.4).
- 3.29 Compulsory acquisition powers will be required, to ensure that the remaining interests can be acquired in the event that negotiations are unsuccessful but also due to the number of unknown interests in the Order Land. In particular, as explained above, compulsory powers are sought in respect of the land upon which the rail terminal is to be located (paragraph 3.19.2), and the revised access arrangements to Four Ashes (Gailey Park) industrial area (paragraphs 3.20 and 3.21) so as to ensure there are no restrictions on delivery of those works.

### **Crown Land/Special Category Land**

- 3.30 There is no Crown Land or special category land within the Order limits.

### **Consideration of Category 3 Parties**

- 3.31 The Book of Reference sets out at Part 2 those persons considered to fall within Category 3 (as defined in section 57 of the Act). A person is within Category 3 if the applicant thinks that, if the order as sought by the application were to be made and fully implemented, the person would or might be entitled:

- 3.31.1 as a result of the implementing the order;
- 3.31.2 as a result of the order having been implemented; or
- 3.31.3 as a result of the use of the land once the order has been implemented,

to make a relevant claim.

- 3.32 A “relevant claim” is defined in the Planning Act 2008 as –

- 3.32.1 a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for the taking, or injurious affection, of land subject to compulsory purchase);
- 3.32.2 a claim under Part 1 of the Land Compensation Act 1973 (compensation for depreciation of land value by physical factors caused by use of public works); or
- 3.32.3 a claim under section 152(3) of the Act.

- 3.33 Part 2A of the Book of Reference covers qualifying persons under Section 10 of the Compulsory Purchase Act 1965. Section 152(3) of the Planning Act 2008 does not apply because the defence of statutory nuisance has been disapplied in response to a request from South Staffordshire Council (see article 46(6) of the draft DCO (Document 3.1D)). The Applicant does not consider that there are any potential claimants in this regard and therefore there are no entries in Part 2A.
- 3.34 Section 10 relates to claims made in respect of the execution/carrying out of the works.
- 3.35 There are however, limitations on the right to compensation under that section. The effect is that a claimant, in order to have a right to compensation, would have to show that, but for the authority granted by the DCO, he would have an action for damages for public or private nuisance.
- 3.36 The nuisance would need to be an unreasonable interference with the interest in land and relate to the construction of the proposed development.
- 3.37 It would therefore arise in relation to construction impacts relating to noise, dust, vibration or physical impacts on properties.
- 3.38 As set out below, in the opinion of the Applicant, the limitations on a relevant claim will preclude a claim being brought. The impact of the construction of the proposed development has been assessed in the Environmental Statement (Document 6.2) by reference to:
- 3.38.1 Air Quality – Chapter 7 (APP-027);
  - 3.38.2 Noise (including vibration) – Chapter 13 (APP-046 – APP-051 and REP2-014);
  - 3.38.3 Landscape and Visual (for lighting) – Chapter 12 (APP-032); and
  - 3.38.4 Transport – Chapter 15 (APP-053 and APP-054).
- 3.39 None of these Chapters identify an adverse impact as a result of construction sufficient to give rise to a cause of action and there are no other environmental impacts which, in the opinion of the Applicant, might give rise to a claim. The Statutory Nuisance Statement (Document 5.2, APP-153) provides further details.
- 3.40 Part 2B of the Book of Reference covers qualifying persons under Part 1 of the Land Compensation Act 1973 (claims which may be brought as a result of the use of the works rather than the execution of the works) and lists those parties

with an interest outside the Order limits whose interests are not proposed to be subject to compulsory acquisition.

- 3.41 The parties listed in this Part of the Book of Reference were identified as part of the Applicant's assessment of noise impact resulting from the proposed development. As explained in the Applicant's assessment of the noise impact, which is considered in detail in Chapter 13 of the Environmental Statement (Document 6.2, APP-46), it is possible that one receptor might be entitled to a claim under the Noise Insulation Regulations, and this property is therefore listed in Part 2B. This receptor is the residence known as The Villa, being a property situated to the north of the A5. The details of this are contained in paragraph 13.363 – 13.396 of Chapter 13 of the Environmental Statement and Figure 13.4 shows the location of The Villa (see inset 13.4.2 - receptor number 53, APP-050).

#### **4. Justification for seeking Compulsory Acquisition powers**

- 4.1 Section 122 of the Planning Act 2008 provides that:

- 1) *An order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that the conditions in subsections (2) and (3) are met:-*
- 2) *The condition is that the land:-*
  - a. *is required for the development to which the development consent relates,*
  - b. *is required to facilitate or is incidental to that development, or*
  - c. *is replacement land which is to be given in exchange for the order land under Section 131 or 132.*
- 3) *The condition is that there is a compelling case in the public interest for the land to be acquired compulsorily."*

#### **Section 122(2) Planning Act**

- 4.2 The Applicant has a clear idea of how it intends to use the land which is to be subject to compulsory acquisition.
- 4.3 Section 3 above explains why each parcel of land is required for the development and the proposed use of each parcel of land and therefore demonstrates that the proposed acquisition as detailed in the Book of Reference is required in order to carry out the development. The compulsory

acquisition is limited to the minimum necessary in respect of land (or, indeed, rights over land). Section 122(2) is therefore complied with.

- 4.4 With regard to section 122(2)(c), there is no common land or open space land in the Order limits and therefore no land is required to be given in exchange.
- 4.5 The Applicant therefore considers that section 122(2) is complied with.
- 4.6 In order to comply with the condition contained in Section 122(3), it must be demonstrated that there is a compelling case in the public interest for the compulsory acquisition. The CLG guidance states *“for this condition to be met, the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired”*.<sup>2</sup>
- 4.7 The Proposed Development is brought forward in response to the need for new SRFIs nationally and the identified need for rail served warehousing to serve the Black Country and southern Staffordshire. The supporting information submitted with the DCO application demonstrates:-
- 4.7.1 the acknowledged need for and the public benefits of SRFI in general, which are established in the National Policy Statement for National Networks (‘the NPS’) (particularly at paragraphs 2.42 to 2.58) and summarised in the Planning Statement, (Document 7.1A Sections 4 and 5, APP-252);
- 4.7.2 specifically, the identified need for, and public benefit of, a SRFI of this scale, and in this location, as set out in the Planning Statement (Section 5, 14 and 16), the Statement of Economic Benefits (Document 7.1B, APP-254) and the Alternative Sites Assessment (Document 7.2, APP-255) ; and
- 4.7.3 the market need for the proposals as set out in the Updated Market Assessment (Document 7.4A, REP2-004).
- 4.8 A summary of the key conclusions of the Planning Statement, incorporating policy support within the NPS and the findings of the Statement of Economic Benefits, the Alternative Sites Assessment and the Market Assessment, is set out in the paragraphs that follow. These documents demonstrate the long outstanding need and demand for a SRFI in this area, that the recognised urgency of this need is likely to continue to grow in the future and that the Proposed Development offers the only opportunity to fulfil this need. Meeting

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<sup>2</sup> Paragraph 13 CLG guidance.

this need and securing the multiple benefits of a SRFI development is long overdue and directly consistent with national policy. The compelling need for the Proposed Development is also addressed in the following documents submitted during the Examination:

- 4.8.1 Green Belt – an Update (Appendix 3 to the Applicant’s Responses to ExQ1, Document 10.1, REP2-010);
  - 4.8.2 Compelling Need and VSC (Appendix 2 to the Applicant’s Post Hearing Submissions (CAH, ISH2 & 3), Document 14.1, REP4-004); and
  - 4.8.3 The Applicant’s Post Hearing Submissions (ISH5) (Document 16.2).
- 4.9 The NPS sets out strong policy support for the development of a national network of SRFIs. This support arises from the acknowledged benefits the use of rail can bring to the movement of freight through providing economy and efficiency for business and, particularly, because of the substantial environmental benefits achieved by transferring longer-distance freight movements from road to rail. The NPS establishes a “**compelling need for an expanded network of SRFIs**” (NPS paragraph 2.25) and a “**presumption in favour of granting development consent for national network NSIPs**” (that fall within the need identified in the NPS) (NPS paragraph 4.2).
- 4.10 The particular importance of the future provision of SRFIs to secure economic growth is set out in a series of paragraphs in the NPS and could not be more clearly or directly expressed. For example, at paragraphs 2.42 and 2.45:
- 4.11 ***“The logistics industry, which directly employs over two million people across more than 190,000 companies generating over £90 billion annually, underpins the efficient operations of most sectors of the wider national economy. Over recent years, rail freight has started to play an increasingly significant role in logistics and has become an important driver of economic growth.”*** (emphasis added) (NPS paragraph 2.42)
- 4.12 ***“The logistics industry provides warehousing and distribution networks for UK manufacturers, importers and retailers - currently this is predominantly a road based industry. However, the users and buyers of warehousing and distribution services are increasingly looking to integrate rail freight into their transport operations with rail freight options sometimes specified in procurement contracts. This requires the logistics industry to develop new facilities that need to be located alongside the major rail routes, close to major trunk roads as well as near to the conurbations that consume the goods.”*** (emphasis added) (NPS paragraph 2.45)

- 4.13 The NPS confirms that while rail freight forecasts “***do not provide the granularity to allow site-specific need cases to be demonstrated, they confirm the need for an expanded network of large SRFIs across the regions to accommodate the long-term growth in rail freight***” (NPS paragraph 2.50). The NPS does not identify specific locations for SRFIs, anticipating that the identification, promotion and delivery of SRFI’s will be market-led. It does however identify the locational requirements (NPS paragraphs 4.84 – 4.87) and recognises that due to these requirements, the locations suitable for SRFIs will be limited:
- 4.14 ***“It is important that SRFIs are located near the business markets they will serve – major urban centres, or groups of centres – and are linked to key supply chain routes. Given the locational requirements and the need for effective connections for both rail and road, the number of locations suitable for SRFIs will be limited, which will restrict the scope for developers to identify viable alternative sites”.*** (NPS paragraph 2.56)
- 4.15 The location of the Proposed Development offers a range of attributes which make it ideally and uniquely suited to the development of a SRFI, including:
- 4.15.1 the Site’s location on the West Coast Main Line (‘WCML’) (western branch), which offers not only the trains path capacity, but also the topography and geometry required to achieve high quality north and south facing connections for full length (775m) trains;
- 4.15.2 the Site’s location on the strategic road (bound by the A5 and A449, and adjacent to junction 12 of the M6) and the rail network is ideally placed to meet the identified need for SRFI in this locality and to serve a dense catchment of manufacturing, distribution and consumer businesses; and
- 4.15.3 the Site’s scale and physical suitability for development, which offers the opportunity to provide a well laid out rail-served distribution park. The Proposed Development is capable of providing the size of buildings necessary to meet modern requirements. It is also able to deliver development which will support a high frequency of freight trains, and thereby offer the opportunity for significant modal shift.
- 4.16 As explained in Planning Statement (Sections 4 and 5), the clear need for a SRFI to serve southern Staffordshire and the Black Country has been established through public policy for many years, but local planning policy has failed to find a solution. The Planning Act 2008 and the NPS now provides a way in which a SRFI can come forward in this location of need.

- 4.17 There is a substantial gap in the national network of SRFIs between the east side of the West Midlands (Birch Coppice / Hams Hall) and the North West of England (Port Salford / Widnes). A new SRFI in South Staffordshire would help to address that gap, providing substantial economic and sustainability benefits in its own right, and providing an important service to business and industry in the region. Market evidence demonstrates that there is an extraordinary scarcity of supply of large-scale, rail served distribution buildings, in the area despite the importance of logistics to the West Midlands manufacturing economy.
- 4.18 The Market Assessment (Document 7.4A, Figure 5.2) confirms that, as a result of high levels of take-up, the supply of ‘big shed’ (100,000 sq ft+) floorspace is critically low, with there being a severe shortage of premises nationwide, and particularly of the largest units in prime locations, such as the West Midlands. The region sees very high levels of demand from both the logistics and manufacturing sectors, which has resulted in a critical undersupply of floorspace, with 2.42 years of supply as at the end of 2018. It is therefore vitally important that additional, well-located sites, which are capable of accommodating larger units, are brought forward in order to help meet demand and deliver high quality floorspace via either speculative development or by offering occupiers build to suit opportunities.
- 4.19 The supply of land in the pipeline for the region is limited, and there are no sites forthcoming that will be served by rail. The serious failure of the planning process to identify new land for distribution, coupled with the area’s inherent attraction for warehousing has resulted in an ever decreasing availability of land and buildings. The result is an exceptional scarcity of supply.
- 4.20 A significant amount of new land and premises in the right locations and of the right quality and scale is required in order address the ongoing shortage. The Market Assessment (Section 5.3) demonstrates that there is a chronic shortage of land and that WMI would make a vital contribution to the supply of sites necessary to meet demand.
- 4.21 The development of SRFIs is a major investment, with infrastructure – particularly the rail connection and terminal, together with land and associated development amounting to **“many tens of millions of pounds”** (paragraph 3.1.16, Black Country and southern Staffordshire Regional Logistics Site Study, URS (April 2013)). The Government’s clear expectation is that these SRFIs will be delivered through private sector investment, as part of the continuing development of the UK’s logistics and distribution sector. In order to maximise the economic potential of the logistics sector, it is vital for the SRFIs to provide the appropriate accommodation to meet the needs of companies seeking efficiency in the scale and modal connection of their

distribution requirements. Developers of distribution warehouses are increasingly having to respond to a more sophisticated and demanding client base, providing users with reliability and flexibility in their product, as recognised in the NPS (NPS Table 4).

- 4.22 The 297 ha site area proposed at WMI will allow the delivery of a new intermodal rail terminal for the market area, responding to the severe scarcity of supply, with up to 743,200 sq m (c. 8m sq ft) of rail served warehousing. The Proposed Development is a direct response to the scale of the unmet need for rail served warehousing in the market area and is of sufficient scale to be attractive to the market and to secure the frequency of trains necessary to achieve a high quality rail served centre for distribution. This would enable significant modal shift away from exclusively HGV based distribution.
- 4.23 The Proposed Development has the potential to provide a wide range of benefits on a local, regional and national scale. These benefits would be both direct and long lasting. The key strategic, economic and transport benefits are outlined in the Planning Statement, the Statement of Economic Benefits and in Chapter 15 of the Environmental Statement. These benefits include:
- 4.23.1 the Proposed Development, when fully operational, would support up to 8,550 jobs, with a further estimated 8,100 indirect and induced jobs in the UK economy and around 230 construction jobs at any one time during the 15 year construction period;
- 4.23.2 FAL are developing an Employment, Skills and Training Plan in partnership with South Staffordshire District Council ('SSDC'), Staffordshire County Council ('SCC') and Wolverhampton City Council ('WCC'). The Plan will define working relationships between FAL, tenants and public / education sector stakeholders and will assist in securing the maximum local benefits from new jobs to be provided at WMI, both during construction and operation;
- 4.23.3 the Proposed Development would result in a permanent increase in locally generated GVA of £912m per year. This would be made up of both activity on-site, which would generate an additional £427m in GVA and indirect / induced GVA effects via the supply chain, which would total an estimated £485m; and
- 4.23.4 the Proposed Development would provide in excess of a hundred million pounds worth of investment into both rail and road infrastructure, of a scale which can contribute substantially towards continued economic growth, both in the region and nationally.



- 4.24 One of the key drivers of need for the development of the national rail network is the environment, with the Proposed Development having the potential to contribute significantly to the UK Government's commitment to cut greenhouse gas emissions by at least 80% by 2050<sup>3</sup>. The NPS recognises the role that rail transport and SRFIs have to play in delivering significant reductions in pollution:
- 4.25 ***“Rail transport has a crucial role to play in delivering significant reductions in pollution and congestion. Tonne for tonne, rail freight produces 70% less CO2 than road freight, up to fifteen times lower NOx emissions and nearly 90% lower PM10 emissions. It also has de-congestion benefits – depending on its load, each freight train can remove between 43 and 77 HGVs from the road.”*** (NPS paragraph 2.35)
- 4.26 The Planning Statement (Section 14) sets out the broad carbon benefits of the Proposed Development, in the context of the NPS and HGV kilometres saved as a result of the Proposed Development. The transfer of freight from road to rail is specifically recognised as an important means for reducing carbon in the NPS:
- 4.27 ***“The Government's vision for transport is for a low carbon sustainable transport system that is an engine for economic growth, but is also safer and improves the quality of life in our communities. The Government therefore believes it is important to facilitate the development of the intermodal rail freight industry. The transfer of freight from road to rail has an important part to play in a low carbon economy and in helping to address climate change.”*** (NPS paragraph 2.53)
- 4.28 It is not possible to calculate with a high degree of accuracy the amount of carbon which will be saved when the Proposed Development is fully operational. The precise extent of carbon saved will depend in part on the identity of the on-site occupiers and will vary over time as rail connectivity becomes more established around the country. Based on the NPS and the examples of operating rail freight logistics set out above, there is no doubt that a fully operational SRFI at WMI would deliver substantial savings in carbon emissions. Even using conservative assumptions, it is estimated that the Proposed Development would save in the region of 50 million HGV kilometres each year at maturity.
- 4.29 The Alternative Sites Assessment ('ASA') confirms that the WMI Site offers the only realistic opportunity to create a SRFI development in the identified area

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<sup>3</sup> [Section 1] 2008 Climate Change Act

of need, with the ASA demonstrating that no other sites within the market area can be regarded as genuine alternatives.

4.30 There is therefore a compelling case that the public benefits of the Proposed Development would substantially outweigh the private loss that would be suffered.

**5. Compliance with Guidance**

5.1 The CLG Guidance suggests a number of general considerations which the applicant for a DCO should demonstrate to the satisfaction of the Secretary of State to justify their proposed compulsory acquisition. These considerations, and where they are addressed in this statement, are set out in the table below:

Guidance	Compliance
<p><i>i. That all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored;</i></p>	<p>The Applicant has considered all alternatives to the site chosen for the Proposed Development - see Alternative Sites Assessment.</p> <p>The Planning Statement and the Design and Access Statement (Document 7.5, APP-258) explain the evolution of the scheme and the reasons why the site is to be developed as proposed, having regard to the requirements of an SRFI and giving appropriate consideration to environmental impacts.</p> <p>The Applicant believes that the Application documentation demonstrates that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and that it is necessary and proportionate.</p>

Guidance	Compliance
<p>ii. <i>That the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate;</i></p>	<p>The Applicant believes that the Application documentation demonstrates that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and that it is necessary and proportionate.</p>
<p>iii. <i>That the applicant has a clear idea of how they intend to use the land which it is proposed to acquire;</i></p>	<p>The table in paragraph 3.26 of this Statement sets out clearly how each plot is to be used.</p>
<p>iv. <i>That there is a reasonable prospect of the requisite funds for acquisition becoming available; and</i></p>	<p>The Funding Statement sets out why there is a reasonable prospect of the requisite funds for acquisition becoming available.</p>
<p>v. <i>That the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. In particular, regard must be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of acquisition of a dwelling, Article 8 of the Convention.<sup>4</sup></i></p>	<p>Regard has been had to the provisions of Article 1 of the First Protocol to the European Convention of Human Rights which protects the rights of everyone to the “<i>peaceful enjoyment of possessions except in the public interest and subject to the conditions provided for by law</i>”.</p> <p>Any interference with possessions must therefore be proportionate and in determining whether a particular measure is proportionate, a “fair balance” should be struck between the demands of the general interest and the protection of the individual’s rights.</p> <p>Whilst the beneficiaries of the interests in the Order Land will be deprived of</p>

<sup>4</sup> Paragraphs 8-10 CLG Guidance

Guidance	Compliance
	<p>their interest if the DCO is confirmed, this will be done in accordance with the law. The DCO is being pursued in the public interest as required by Article 1 of the First Protocol. The need for, and public benefits associated with, the proposed development are set out in the NPS in general and the Planning Statement, specifically as summarised in paragraphs 4.7 – 4.30 above.</p> <p>Accordingly, the Applicant is satisfied that although the Convention rights are likely to be engaged, the proposed development does not conflict with those rights and will be proportionate because there is a compelling case in the public interest of the proposals which outweighs the impact on individual rights, in this instance.</p>

**6. Other Information of Interest to those affected by the DCO**

- 6.1 Further information about the Application can be found on the Applicant’s website dedicated to the proposals – [www.westmidlandsinterchange.co.uk](http://www.westmidlandsinterchange.co.uk). Information on the Application and further documentation submitted during the Examination can be found on the Planning Inspectorate’s website for the project - <https://infrastructure.planninginspectorate.gov.uk/projects/west-midlands/west-midlands-interchange/?ipcsection=overview>.
- 6.2 Owners, occupiers or any person with an interest in any of the Order Land who wish to discuss matters relating to the negotiation of agreements should contact Derry Mockett of BNP Paribas Real Estate, Portwall Place, Portwall Lane, Bristol, BS1 6NA (0117 98 48 424) or [derry.mockett@bnpparibas.com](mailto:derry.mockett@bnpparibas.com).
- 6.3 Planning Inspectorate Advice Notes 8,2, 8.3, 8.4 and 8.5 deal with involvement in the Examination process and are available on the Planning Inspectorate website.