

WMI – Amended Consultees for Highways and Bridges NMC Application

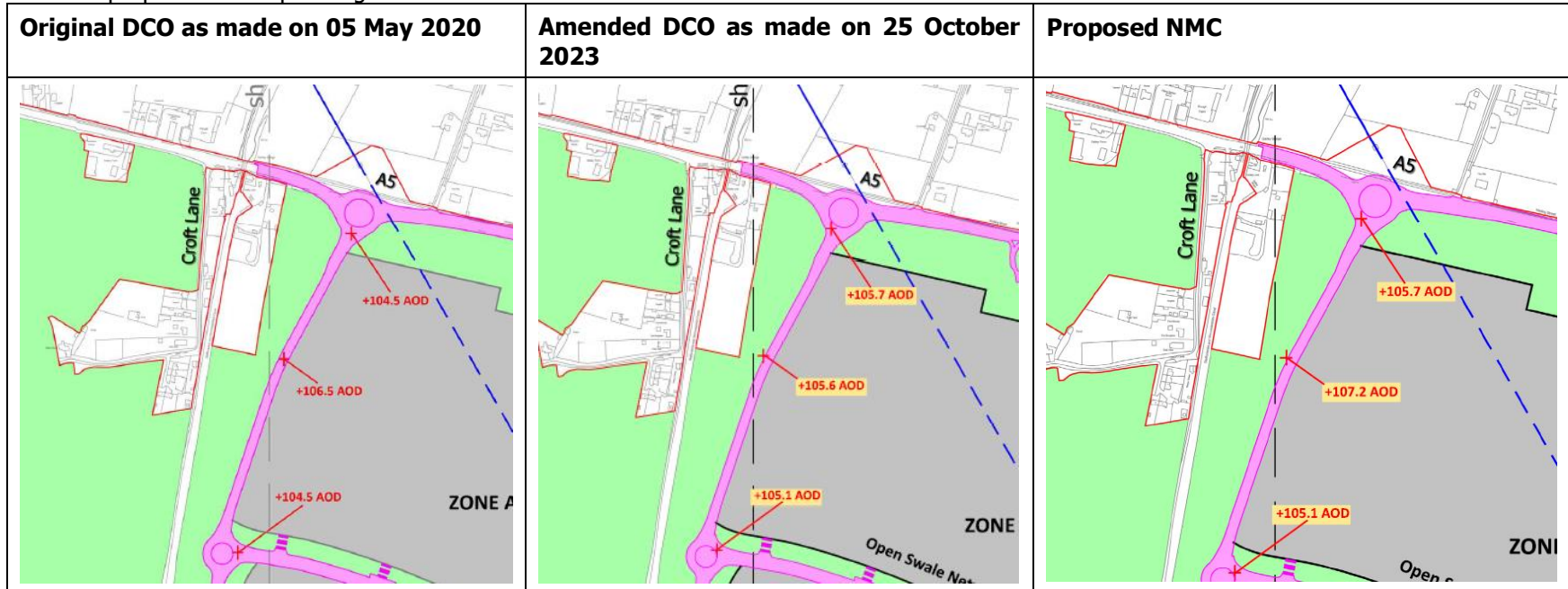
1 INTRODUCTION

- 1.1 This Regulation 7 letter has been prepared to set out the proposed amended consultees for the proposed A5-A449 Link Road Non-Material Change application (the “NMC application”) to be submitted to the Secretary of State in respect of The West Midlands Rail Freight Interchange Order 2020 (SI: 2020 No. 511) (as amended by The West Midlands Rail Freight Interchange (Correction) Order 2020 (SI: 2020 No. 1163) and The West Midlands Rail Freight Interchange (Amendment) Order 2023 (SI: 2020 No.1132 (“the DCO”). The NMC application is to be submitted by Four Ashes Limited (“FAL”) the undertaker for the purposes of the DCO. Table 1 (and Appendix 1) of this letter lists those parties that FAL consider should be consulted in respect of the NMC application with commentary on why those consultees should be included in the consultation on the NMC application. Table 2 lists those parties that FAL considers should not be included in consultation on the NMC application, together with an explanation to why they are excluded.
- 1.2 FAL is requesting an urgent decision on the proposed list of consultees. The amendments being proposed through the NMC application form critical elements of the infrastructure needed to support the timely delivery and necessary phasing of the proposed A5-A449 Link Road provided for by the DCO. The works covered by this NMC application relate to one change in finished road level identified on the Parameters Plans relating to Development Zones, Building Heights & Floor Levels and Green Infrastructure. This NMC application seeks to amend one spot level identified on the Parameters Plans, which was inadvertently amended by the West Midlands Rail Freight Interchange (Amendment) Order 2023 (SI: 2023 No. 1132).

The Original DCO which came into force on 25 May 2020 identified a level of 106.5m AOD, with a maximum vertical deviation tolerance of +/-0.5m. The Highways and Bridges NMC amended this to 105.6m AOD, decreasing the height of the A5/A449 Link Road in this location. This only permits a tolerance of 105.1m - 106.1m AOD. However, the detailed design actually requires a level of 107.2m AOD to be achieved for the following reasons:

- To provide sufficient vertical cover to the new culvert to be installed underneath the proposed A5/A449 Link Road adjacent to the proposed A5 Roundabout, to facilitate the necessary and planned diversion of the Canal and River Trust feeder channel from Calf Heath Reservoir into the Staffordshire and Worcestershire Canal.
- To deliver a gravity-driven surface water drainage system connecting the proposed A5/A449 Link Road to the new surface water attenuation pond adjacent to the proposed A5/A449 Link Road – North South Spine Road Roundabout, in accordance with Staffordshire County Council’s design standards for adoption as local highway authority.
- To provide a vertical highway geometry design in accordance with the Design Manual for Roads and Bridges, aligned with the agreed road speed design, as required by Staffordshire County Council as local highway authority.

- 1.3 This represents just 0.2 metre difference from the Original DCO finished road level spot height of 106.5m AOD in this location, which permitted up to 107.0m AOD in this location due to the maximum vertical deviation tolerance of +/-0.5m. **Figure 1** below identifies the Original DCO, Amended DCO and proposed NMC spot height:



- 1.4 The A5-A449 Link Road is currently in the process of technical approval by Staffordshire County Council as the local highways authority, pursuant to Schedule 13, Part 3 of the DCO. The vertical and horizontal design is considered to meet Staffordshire County Council's requirements, however, it is unable to provide technical approval owing to non-conformity with the vertical limits of deviation identified on the Parameters Plans. Similarly, South Staffordshire District Council cannot approve the relevant detailed design requirements (e.g. Order Requirement 4) due to this area of non-conformity with the Parameters Plans.
- 1.5 Delay in the ability to deliver the works covered by the NMC application will have consequential, and potentially significant, impacts on the current programme.

- 1.6 Should the Department for Transport have any queries regarding those to be consulted or not consulted, as set out in this letter, the Applicant would be happy to provide further explanation and answer any queries in a meeting with Department for Transport.
- 1.7 Regulation 7 of Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (as amended) (“the 2011 Regulations”) states that applicant must consult the following:
- (a) each person for whose benefit the development consent order, to which the application relates, has effect;
 - (b) each person that was, in accordance with section 56 [Planning Act 2008], notified of the application for the development consent order which is the subject of the application; and
 - (c) any other person who may be directly affected by the changes proposed in the application.
- 1.8 Section 56 of the Planning Act 2008 sets out that the following should be notified of the application for the DCO:
- (a) such persons as may be prescribed;
 - (aa) the Marine Management Organisation [*not relevant to WMI*];
 - (b) each local authority within Section 56A;
 - (c) the Greater London Authority [*not relevant to WMI as no land in Greater London*]; and
 - (d) each person who is within the categories in section 57 [*i.e. those persons impacted by the proposed DCO*].
- 1.9 The Secretary of State can give written consent to certain of the above persons not being consulted (Regulation 7(3) of the 2011 Regulations).
- 1.10 The Applicant has applied the following methodology to inform this scoping exercise, to determine which parties should be consulted:
- Consideration of whether the NMC application proposes design changes which are relevant to statutory consultees, in terms of environmental considerations;
 - Consideration of whether a party has an interest in land within / adjacent to / affected by the geographical and functional scope of the amendments proposed in this NMC. Given the nature of the proposals, the NMC application will have very localised effects and, for example, not

be relevant to Local Authorities beyond Staffordshire County Council and South Staffordshire District Council where the West Midlands Rail Freight Interchange site is situated.

- 1.11 In defining whether a party with an interest in land is affected by the proposed amendments, the Applicant has undertaken a land referencing exercise by mapping out the geographical areas of the proposed amendments comprising the NMC application with a three metre buffer applied to allow for any additional surrounding area potentially required to undertake the works. This has identified persons with an interest in land ('PILs') set out in Table 1 (and Appendix 1) who will be consulted; (note, where persons with an interest are also identified elsewhere in Table 1 as a party proposed to be consulted because, for example, they are also defined as a prescribed person under S56(2)(a) of the Planning Act 2008, these are marked with an '*' in the list in Appendix 1 for clarity).

Table 1: Parties Proposed to be Consulted Under Section 56 of the Planning Act 2008 on this NMC

Consultee Body	Classification under s56 of the Planning Act 2008	Summary of Reasons for Inclusion in NMC Consultation?
The relevant parish council [Penkridge PC]	S56(2)(a) – prescribed persons	Yes – whilst the proposed level change is de minimus, it is located within the boundary of Penkridge PC.
The Environment Agency	S56(2)(a) – prescribed persons	Yes – proposed NMC application facilitates the proposed culvert linking the Calf Heath Reservoir and Staffordshire and Worcestershire Canal under the A5/A449 Link Road adjacent to the proposed A5 Roundabout and relates to a designated Main River (the Canal).
The Secretary of State for Transport	S56(2)(a) – prescribed persons	Yes, as consultee.
The relevant highway authority (Staffordshire County Council Highways)	S56(2)(a) – prescribed persons	Yes – the proposed NMC application relates to the Staffordshire County Council road network and the proposed level change relates to their detailed design requirements in terms of the Design Manual for Roads and Bridges.
The Canal & River Trust	S56(2)(a) – prescribed persons	Yes – proposed NMC application facilitates the proposed culvert linking the Calf Heath Reservoir and Staffordshire and Worcestershire Canal under the A5/A449 Link Road adjacent to the proposed A5 Roundabout and relates to their asset.

Consultee Body	Classification under s56 of the Planning Act 2008	Summary of Reasons for Inclusion in NMC Consultation?
Relevant Statutory Undertakers: <ul style="list-style-type: none"> • National Grid Electricity Distribution plc (formerly Western Power Distribution Limited) • Severn Trent Water • South Staffordshire Water PLC • Operators of Electronic Communications Code Networks (British Telecommunications plc, Sky UK Limited, Vodaphone Limited, Openreach Limited) 	S56(2)(a) – prescribed persons	Yes, defined in land referencing exercise as having land interest / apparatus with the geographical area of the proposed amendments as described at paragraph 1.10 above.
South Staffordshire District Council	S56(2)(b) – Local Authorities	Yes – the Council is the local planning authority for the area of land which the non-material changes relates to.
Staffordshire County Council	S56(2)(b) – Local Authorities	Yes – in addition to being a relevant Highways authority, the Council is the lead local flood authority for the area of land which the non-material change relates to and advises South Staffordshire District Council in respect of archaeology, economic development and ecology services.

Table 2: Parties Proposed Not to be Consulted Under Section 56 of the Planning Act 2008 on this NMC

Consultee Body	Classification under s56 of the Planning Act 2008	Summary of Reasons for Exclusion from NMC Consultation?
The relevant parish council [other than Penkridge PC]	S56(2)(a) – prescribed persons	No – the proposed NMC application relates to design changes to highways infrastructure in one isolated location on the proposed A5/A449 Link Road within the boundary of Penkridge PC. The degree of change compared with the Parameters Plans is considered to be de minimus, especially in the context of the 0.2 metre difference in road level compared with the DCO prior to the approval of the Highways and Bridges NMC and therefore does not affect parish councils outside the boundary of Penkridge PC
Other highway authority (National Highways)	S56(2)(a) – prescribed person	No – the proposed NMC application does not relate to the strategic road network and therefore falls outwith the purview of National Highways. Staffordshire County Council is the relevant local highway authority.
Other canal bodies: <ul style="list-style-type: none"> • Inland Waterways Association (Lichfield Branch); and • Lichfield and Hatherton Canals Restoration Trust 	S56(2)(a) – prescribed persons	No – the proposed NMC application will not affect the design or function of the Staffordshire & Worcestershire Canal. Canal and River Trust is to be engaged only because of their role as asset manager in relation to the proposed culvert under the A5/A449 Link Road between Calf Heath Reservoir and the Staffordshire & Worcestershire Canal.
Staffordshire Fire and Rescue Service (The relevant fire and rescue authority)	S56(2)(a) – prescribed persons	No – the proposed NMC application will not materially alter the general arrangement of highway used by fire and rescue services.
The Rail Land Infrastructure Manager (Network Rail)	S56(2)(a) – prescribed persons	No – the proposed NMC application will not affect the design of the A5/A449 Link Road in relation to its asset (West Coast Main Line Loop railway) and it falls outside of land subject to the extant Basic Asset Protection Agreement entered between Network Rail and FAL. It will

Consultee Body	Classification under s56 of the Planning Act 2008	Summary of Reasons for Exclusion from NMC Consultation?
		not result in an increase in the volume / material change in the character of traffic using a level crossing over a railway.
The Rail Network Operator(s) (West Midlands Trains, Avanti West Coast, Cross Country, London Northwestern Railway)	S56(2)(a) – prescribed persons	No – the proposed NMC application will not alter the general arrangement and design of the proposed bridges across the WCML Loop.
Person with an Interest in the Land (PILs), as defined through the land referencing exercise explained at paragraph 1.7 above and listed in Appendix 1.	S56(2)(d) – persons impacted by the DCO	No – these persons will not be directly impacted / potentially directly impacted by the physical changes proposed to the DCO (and identified as such as a party with an interest in land within / adjacent to the geographical scope of the amendments).
<p>Other Local Authorities and Highways Authorities:</p> <ul style="list-style-type: none"> • Stafford Borough Council; • Cannock Chase District Council; • Walsall Council; • City of Wolverhampton Council; • Dudley Metropolitan Borough Council; • Bromsgrove District Council; • Wyre Forest District Council; • Shropshire Council; and 	S56(2)(b) and S56A(2) – ‘A’ authorities	No – the proposed NMC application relates to design changes to highways infrastructure in one isolated location on the proposed A5/A449 Link Road. The proposed NMC application does not affect the principles of development granted DCO consent such as quantum of rail-served warehousing or specification of the Rail Terminal and therefore does not alter likely traffic movements or the estimated number of employees associated with the development.

Consultee Body	Classification under s56 of the Planning Act 2008	Summary of Reasons for Exclusion from NMC Consultation?
<ul style="list-style-type: none"> • Telford and Wrekin Council. • Leicestershire County Council; • Derbyshire County Council; • Cheshire East Council; • Stoke-on-Trent City Council; • Warwickshire County Council; • Worcestershire County Council; • Birmingham City Council; • Peak District National Park Authority; and • West Midlands Combined Authority. 		
<p>Other Parish Councils:</p> <ul style="list-style-type: none"> • Brewood and Coven PC; • Cheslyn Hay PC; • Dunston With Coppenhall PC; • Essington PC; • Featherstone PC; • Great Wyrley PC; • Hatherton PC; • Hilton PC; 	<p>S56(2)(a) – prescribed persons and also non-prescribed consultee respondents to Stage 2 consultation undertaken previously in preparing the original DCO application under Section 47 of the Planning Act 2008</p>	<p>No – the proposed element of the NMC application is not situated within the administrative boundaries of the noted parish councils. The proposed NMC application does not affect the principles of development granted DCO consent. Given the localised nature of the changes proposed, these Parish Council areas not be directly or indirectly affected by the proposals.</p>

Consultee Body	Classification under s56 of the Planning Act 2008	Summary of Reasons for Exclusion from NMC Consultation?
<ul style="list-style-type: none"> • Huntington PC; • Lapley, Street and Wheaton Ashton PC; • Saredon PC; and • Shareshill PC. 		
The Crown Estate Commissioners	S56(2)(a) – prescribed persons	No – The Crown Estate Commissioners have no interest in any of the land affected by the proposed NMC application.
The Health and Safety Executive	S56(2)(a) – prescribed persons	No – whilst the Site falls within Consultation Zones of a major accident hazard site (Four Ashes Chemical Works), the proposed NMC application does not affect the quantum nor location of rail-served warehousing permitted by the certified Parameters Plans. No changes are proposed to the Parameters Plans in terms of introducing new land uses (i.e. remains as rail-served warehousing). As the Health and Safety Executive did not object to the DCO scheme and there are no changes in terms of land use, HSE are not affected by the proposals.
The National Health Service Commissioning Board and the relevant clinical commissioning group (the relevant Strategic Health Authority)	S56(2)(a) – prescribed persons	No – the proposed NMC application does not affect the quantum of rail-served warehousing to be delivered on-site and therefore does not alter the estimated number of employees during the operational phase of development. Therefore, the previously assessed potential for traffic effects and safety impacts is unchanged, as the NMC application does not affect traffic generation.
Natural England	S56(2)(a) – prescribed persons	No – on basis of HRA Screening and the proposed NMC application does not affect Cannock Chase AONB, Four Ashes SSSI and Belvide Reservoir.

Consultee Body	Classification under s56 of the Planning Act 2008	Summary of Reasons for Exclusion from NMC Consultation?
The Historic Buildings and Monuments Commission for England [Historic England]	S56(2)(a) – prescribed persons	No – the proposed NMC application does not propose any alterations which materially influence the Staffordshire and Worcestershire Canal Conservation Area, particularly when compared to the Original DCO. The proposed NMC application does not involve demolition of a Grade I or II* Listed Building, result in impact on any battlefield, garden or park of special historic interest which is registered in accordance with section 8C of the Historic Buildings and Ancient Monuments Act 1953 or affect the site of a scheduled monument.
The relevant police and crime commissioner / police authority (Office of the Police and Crime Commissioner – Staffordshire Police HQ)	S56(2)(a) – prescribed persons	No – the proposed NMC application does not affect the quantum of rail-served warehousing to be delivered on-site and therefore does not alter the estimated number of employees during the operational phase of development. Therefore, the previously assessed potential for traffic effects and safety impacts is unchanged, as the NMC application does not affect traffic generation.
Relevant AONB Conservation Boards [Cannock Chase AONB Unit]	S56(2)(a) – prescribed persons	No – the proposed NMC application does not alter the maximum parameters for design of rail-served warehousing in terms of building height and massing nor the location of the Development Zones and therefore does not affect long-range views in relation to Cannock Chase AONB.
The Joint Nature Conservation Committee	S56(2)(a) – prescribed persons	No – on basis of HRA Screening and the proposed NMC application does not affect Cannock Chase AONB, Four Ashes SSSI and Belvide Reservoir. The proposed NMC application does not directly result in alterations to the Staffordshire and Worcestershire Canal, is outside of any Marine Conservation Zone and does not affect any marine or other ecological designations. The NMC only facilitates the previously planned culvert linking Calf Heath Reservoir and Staffordshire and Worcestershire Canal, which does not result in any ecological effects.

Consultee Body	Classification under s56 of the Planning Act 2008	Summary of Reasons for Exclusion from NMC Consultation?
Integrated Transport Authorities (ITAs) and Passenger Transport Executives (PTEs) [West Midlands Integrated Transport Authority]	S56(2)(a) – prescribed persons	No – the proposed NMC application relates to detailed design of the proposed A5/A449 Link Road. It does not affect the overarching sitewide transport strategy, change modal shift or levels of traffic associated with the development.
The Coal Authority	S56(2)(a) – prescribed persons	No – the WMI Site lies outside of the Coal Authority’s defined ‘High Risk’ areas and therefore the proposed NMC application does not affect the Coal Authority.
The relevant internal drainage board [Sow and Penk IDB]	S56(2)(a) – prescribed persons	No – the proposed NMC application would not result in any changes to the proposed sitewide surface water drainage strategy approved as 2018 ES Technical Appendix 16.7 and the strategy subsequently amended by agreement in writing with the local planning authority (LPA ref: 22/00056/PREAPP).
United Kingdom Health Security Agency, an executive agency of the Department of Health and Social Care (formerly Public Health England)	S56(2)(a) – prescribed persons	No – the proposed NMC application will not result in any changes to, or impacts on, infectious diseases, chemical, biological, radiological and nuclear incidents and other health threats.
Relevant Statutory Undertakers not included in Table 1 or as PILS: <ul style="list-style-type: none"> • Cadent Gas Limited; and • ES Pipelines. • Severn Trent Water • South Staffordshire Water PLC • Operators of Electronic Communications Code 	S56(2)(a) – prescribed persons	Defined in land referencing exercise as not having land interest / apparatus with the geographical area of the proposed amendments within the land buffer around the proposed NMC application changes as described at paragraph 1.10 above.

Consultee Body	Classification under s56 of the Planning Act 2008	Summary of Reasons for Exclusion from NMC Consultation?
Networks (British Telecommunications plc, Sky UK Limited, Vodaphone Limited, Openreach Limited)		
The Forestry Commission	S56(2)(a) – prescribed persons	No – the proposed NMC application does not change the areas of woodland to be removed or planted.
The Secretary of State for Defence	S56(2)(a) – prescribed persons	No – the Order Limits does not include land within MoD safeguarding areas and the proposed NMC application does not introduce design changes in relation to proposed floorspace (e.g. to quantum or scale of rail-served warehousing permitted under the Parameters Plans).
Other persons and organisations not listed in Table 1 or as a PIL in Appendix 1 but identified in the Book of Reference (BOR) (Document No. 4.3B dated 21 August 2019, listed in Order Schedule 15)	S56(2)(d) and S57	No – other persons and organisations listed in the BOR but excluded from Table 1 and the list of PILs are deemed not to be directly or indirectly affected by the proposed NMC due to the highly localised nature of the amendment and because the change will not alter the amount or location of rail-served warehousing or specification of the Rail Terminal and will not alter likely traffic movements or materially alter other impacts associated with the development.
Civil Aviation Authority and National Air Traffic Services (NATS)	S56(2)(a) – prescribed persons	No – the NMC application proposals do not relate to an airport and will not affect an airport or its current or future operation. Also, the proposed NMC does not affect the quantum nor location of rail-served warehousing permitted by the certified Parameters Plans.
Other non-prescribed organisations including: <ul style="list-style-type: none"> • All Local Cyclists • Blymhill and Weston Under Lizard Parish Council • Brewood Civic Society 	Non-prescribed consultee respondent to Stage 2 Consultation undertaken previously in preparing the original DCO application under	No – the proposed NMC application only relates to one design change to the finished road level of the A5/A449 Link Road, which is highly localised in nature. The proposed NMC application does not affect the principles of development granted DCO consent such as quantum or arrangement of rail-served warehousing or specification of the Rail Terminal, does not materially impact on green infrastructure and associated mitigation, and does not alter likely traffic or rail

Consultee Body	Classification under s56 of the Planning Act 2008	Summary of Reasons for Exclusion from NMC Consultation?
<ul style="list-style-type: none"> • CPRE Staffordshire • Cranford Developments Ltd • Greensforge Sailing Club • Penkridge Civic Society • Railfuture • Staffordshire Badger Conservation Group • Staffordshire Chambers of Commerce • Stop the Gailey Freight Hub • The New Hollies Limited • The Ramblers Association • The Royal Yachting Association • 1st Blackfords Sea Scouts • 37th Wolverhampton Sea Scout Group 	<p>Section 47 of the Planning Act 2008</p>	<p>movements or the estimated number of employees associated with the development.</p>
<p>HS2 Ltd.</p>	<p>Non-prescribed consultee respondent to Stage 2 consultation undertaken previously in preparing the original DCO application under Section 47 of the Planning Act 2008</p>	<p>No – the NMC application does not propose any amendments affecting HS2 from a safeguarding perspective nor does it affect proposed construction traffic routing.</p>
<p>Royal Mail Group</p>	<p>Statutory Undertaker pursuant to s127 of the Planning Act 2008.</p>	<p>No - the proposed NMC application only relates to one design change to the finished road level of the A5/A449 Link Road, which is highly</p>

Consultee Body	Classification under s56 of the Planning Act 2008	Summary of Reasons for Exclusion from NMC Consultation?
		localised in nature and within the WMI site. The changes will not affect Royal Mail's function as a statutory undertaker.

- 1.12 As stated above, should the Department for Transport wish to discuss the approach to consultees set out above or in Appendix 1, the Applicant would be happy to provide further explanation at a meeting with the Department. The Applicant again respectfully requests an urgent decision on the proposed list of consultees in light of the critical nature of the amendments being proposed by the NMC application.
- 1.13 Please do not hesitate to get in touch should the Department have any questions or require any further information.

Appendix 1: List of Persons with Interest in Land and Other Persons Likely to be affected by the Proposed Amendments

A. Persons with Interest in the Land (PILs)

- Piers Alastair Carlos Monckton, Stretton Hall, Stretton, Stafford;
- National Grid Electricity Distribution (West Midlands) plc, Avonbank, Feeder Road, Bristol.