

West Midlands Interchange Application Statement for Proposed Non-Material Change

West Midlands Rail Freight Interchange Order 2020 (as amended)

Four Ashes Limited

October 2024

Contents

Section 1: Introduction and Site Description	3
Background	3
Structure of this Statement.....	5
Section 2: Extent of Amendment Sought	6
The Proposed Amendment and Rationale	6
Subsequent Changes to Parameter Plans and Associated Change to Landscaped Bund Height.....	7
Affected Authorised Works Numbers and Certified Plans	8
Section 3: Environmental Implications.....	10
Scoping	10
Consideration of the Certified Environmental Statement.....	11
The 2024 Amended Development.....	11
Section 4: Amendments to the Order.....	17
Section 5: Stakeholder Engagement.....	18
South Staffordshire District Council.....	18
Staffordshire County Council.....	18
Canal and River Trust.....	18
Regulation 7(3) Process.....	19
Section 6: Assessment of the Application and Conclusions.....	20
Guidance on Changes to Development Consent Orders.....	20
Assessment of Whether the Proposed Amendment is Material	21
Appendix A – A5/A449 Link Road Height Changes – Plan Extract	24
.....	24
.....	25

Section 1: Introduction and Site Description

Background

1. Four Ashes Limited ('FAL') has the benefit of The West Midlands Rail Freight interchange Order 2020 (as amended by The West Midlands Rail Freight Interchange (Correction) Order 2020) and The West Midlands Rail Freight Interchange (Amendment) Order 2023 ('the Order').
2. FAL is the Applicant in relation to this application for a Non-Material Change. FAL's registered office address is 8 Sackville Street, London, W1S 3DG. The Applicant is the person who applied for the Order to which the application relates and is a person with an interest in the land to which the Order relates.
3. CBRE Limited ('CBRE') has prepared this Statement on behalf of the Applicant as its planning agent. CBRE's registered office address is Henrietta House, Henrietta Place, London, England, W1G 0NB.
4. The Order granted consent for a 'strategic rail freight interchange ('SRFI') on land at Four Ashes within South Staffordshire District, close to Junction 12 of the M6 motorway. FAL has adopted the name 'West Midlands Interchange ('WMI') for the project. The main components of development granted by the Order can be summarised as follows:
 - An intermodal freight terminal with direct connections to the West Coast Main Line, capable of handling at least four trains per day, also including container storage, Heavy Goods Vehicle ('HGV') parking, rail control building and staff facilities;
 - Up to 743,200 m² (gross internal area) of rail served warehousing and ancillary service buildings;
 - New road infrastructure and works to the existing road infrastructure;
 - Demolition and alterations to existing structures and earthworks to create development plots and landscape zones;
 - Reconfiguring and burying of electricity pylons and cables; and
 - 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, including two new country parks.
5. The Secretary of State for Transport granted consent on 25 October 2023 for a Non-Material Change application made by FAL on 12 June 2023. The West Midlands Rail Freight Interchange (Amendment) Order 2023 came into force on 26 October 2023 ("the 2023 NMC"). This obtained consent for changes to the bridge spans on the Bridge Plans and Highway General Arrangement Plans, amendments to originally consented road levels on the Parameters Plans, included additional land previously outside of Order Limits to accommodate the new Rail Freight Terminal and amendments to locations of dropped kerb crossings and new footway on Straight Mile / Woodlands Lane / Kings Road.
6. The following references are used throughout this Statement to refer to the Order and are defined as follows:

- **“The Original DCO”** – the West Midlands Rail Freight Interchange Order 2020 (2020 SI No. 511) made on 04 May 2020 which came into force on 25 May 2020. This was supported by an Environmental Statement (“the 2018 ES”) and subsequently amended by The West Midlands Rail Freight (Correction) Order made on 20 October 2020 which came into force on 21 October 2020. The 2018 ES comprises Document Number 6.2 of Schedule 15 [Certification Documents].
 - **“The 2023 NMC” / “The Amended DCO”** – this refers to the application made by the Applicant on 12 June 2023 for a non-material change to The West Midlands Rail Freight Interchange Order 2020 (i.e. the Original DCO). This was granted by the Secretary of State for Transport, with The West Midlands Rail Freight Interchange (Amendment) Order 2023 made on 25 October 2023, which came into force on 26 October 2023 (2023 SI No. 1132). This was supported by an Environmental Implications Letter, which set out how the 2023 NMC accorded with the Environmental Statement of the Original DCO.
 - **The Proposed NMC** – this refers to this application made by the Applicant for a non-material change to the Amended DCO.
7. FAL has since engaged with the following key statutory consultees in order to obtain technical approval pursuant to the Order, in relation to the eastern section of the proposed A5/A449 Link Road between the north-south Spine Road Roundabout and A5 Access Roundabout:
- South Staffordshire District Council (“SSDC”) as local planning authority in relation to the scope of this NMC application, stakeholders to be engaged and planning process;
 - Staffordshire County Council (“SCC”) as local highways authority pursuant to Schedule 13 Part 3 of the Order, which enables technical approval by SCC as local highways authority; and,
 - Canal and River Trust (“CRT”) in relation to the approval of detailed design of the proposed culvert beneath the A5/A449 Link Road linking Calf Heath Reservoir with the Staffordshire & Worcestershire Canal.
8. The detailed design process to enable technical approval with SCC and CRT has been on-going since 2022. In the process of detailed design, it has become apparent that one of the target AOD levels on the eastern segment of the proposed A5/A449 Link Road is circa. 1.1 metres lower than the required target AOD level of +107.2m AOD. The certified Parameters Plans permit up to +/- 0.5m AOD deviation from the target AOD level identified on the Parameters Plans, which only allows for +106.1m AOD.
9. It should be noted that the Original DCO permitted +106.5m AOD in this location, or up to +107.0m AOD. The detailed design level awaiting technical approval is therefore just 0.2m higher than the previously permitted maximum vertical deviation on the Original DCO Parameters Plans.
10. This Application Statement (“the Statement”) has been prepared to accompany an application for a non-material change to the Order, seeking consent to

increase the target AOD finished road level in the area of proposed A5/A449 Link Road identified in blue in **Figure 2.1** from +105.6m AOD to +107.2m AOD.

This Application is made in accordance with section 153 and Schedule 6 of the Planning Act 2008 and the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (as amended).

Structure of this Statement

11. This Statement is structured as follows:

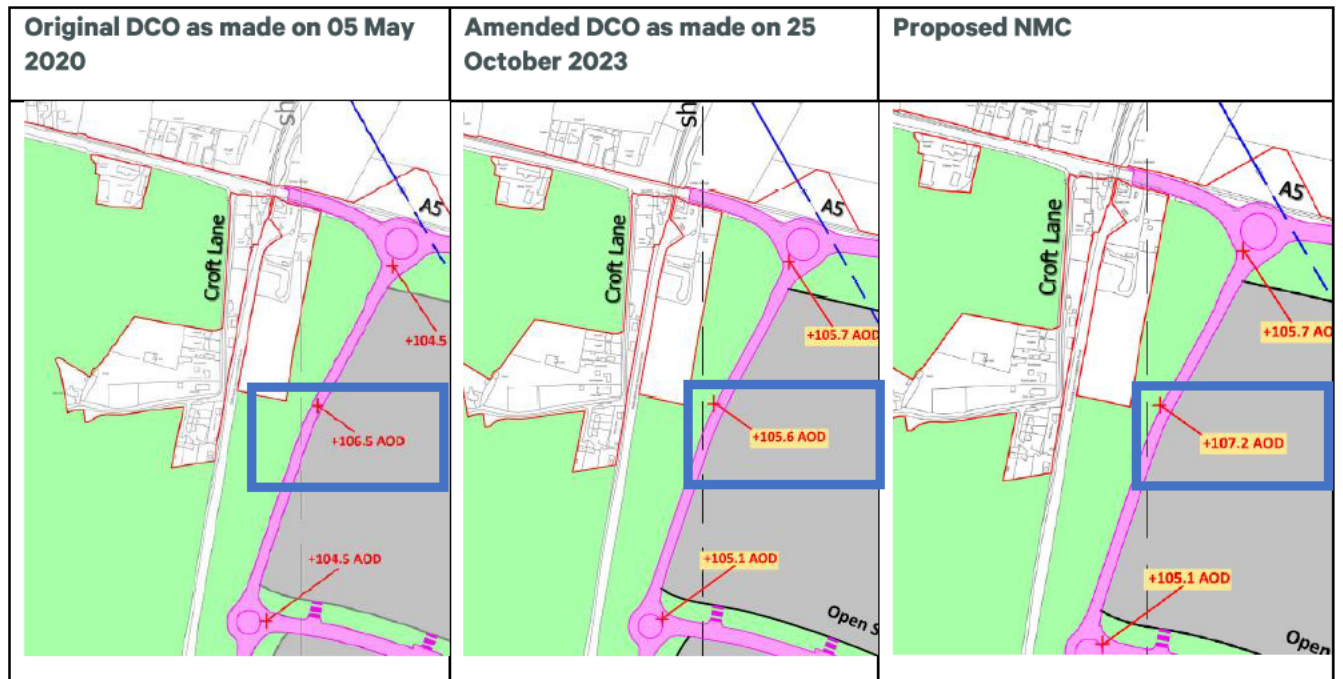
- **Section 2: Extent of Amendment Sought** – an overview of the amendment sought to finished road level in one location on the proposed A5/A449 Link Road.
- **Section 3: Environmental Implications** – consideration of the potential for any changes to previously reported residual effects (i.e. confirmation of no materially new or different significant environmental effects compared with the 2018 ES or 2023 Environmental Implications Letter).
- **Section 4: Amendments to the Order** – proposed draft Amendment Order to enable superseding of certified documents (i.e. Parameters Plans) to be replaced by revised Parameters Plans for certification.
- **Section 5: Stakeholder Engagement** – scope of stakeholder engagement undertaken in advance of this application.
- **Section 6: Assessment of the Application and Conclusions** – assessment of materiality of proposed amendment based on environmental implications considered in Section 3 and relevant guidance set out in *Planning Act 2008: Changes to Development Consent Orders (December 2015)* published by the (then) Department for Communities and Local Government.
- **Appendix A:** Plan extracts illustrating the existing and proposed finished road level in the one location on the eastern part of the proposed A5/A449 Link Road.

Section 2: Extent of Amendment Sought

The Proposed Amendment and Rationale

12. This Proposed NMC application forms a critical element of the infrastructure needed to supported 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 a technical oversight in the West Midlands Rail Freight Interchange (Amendment) Order 2023 (SI: 2023 No. 1132).
13. 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 2023 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.
14. **Figure 2.1** below identifies the Original DCO, Amended DCO and Proposed NMC finished road level height:

Figure 2.1: Comparison of finished road level heights in Original DCO, 2023 NMC and Proposed NMC



Subsequent Changes to Parameter Plans and Associated Change to Landscaped Bund Height

15. The Proposed NMC would require the finished road level height identified in the blue box on **Figure 2.1** above to be amended on the Development Zone, Floor Levels & Heights and Green Infrastructure Parameters Plans.
16. The amendment would result in a consequential change to the landscaped bund height identified on the Green Infrastructure Parameters Plan to the west of the affected section of proposed A5/A449 Link Road, as the height of mounding is relative to the AOD height of the new road infrastructure. Therefore, the increase in finished road level height would result in the same increase in height to the adjacent landscaped bund, which is identified in **Figure 2.2** below.

Figure 2.2: Relationship between Landscaped Bund and Finished Road Level Height



17. This means that the proposed +1.6m AOD increase in finished new road infrastructure height would result in the increase of mounding by +1.6m AOD. It should be noted that the Original DCO spot height was +106.5m AOD, meaning that the increase of mounding height is +0.7m compared with that permitted by the Original DCO Parameters Plans.
18. No further amendments to the Order are sought.

Affected Authorised Works Numbers and Certified Plans

19. This section summarises the relevant components of the authorised Works Numbers ('Works Nos.') and Certified Plans which relate to / are affected by the proposed change.
20. The proposed A5/A449 Link Road subject to this proposed amendment is authorised under Work No. 4 in Part 1 of Schedule 1 of the DCO which sets out the authorised development, comprising¹:

"Works No. 4 Within the area of land described on the works plans as Works No. 4 – The A5/A449 link road the general arrangement of which is shown on the highway general arrangement plans and bridge plans including –

(a) footways and cycleways;

(m) street lighting;

(o) drainage and attenuation structures;

(p) diversion and culverting of the existing canal feeder drain; and

(q) installation of new service crossings below the public highway.

¹ NB: the description of this authorised Works No. excludes sub-parts which are not considered to be relevant to the proposed change – i.e. the section of A5/A449 Link Road to the east of the proposed bridge complex across the proposed rail freight terminal access railway, West Coast Mainline Loop railway, access to SI Group and Staffordshire & Worcestershire Canal.

21. The parallel increase in adjacent landscaped bund height would affect Works No. 6 in Part 1 of Schedule 1 of the DCO, comprising:

“Within the area of land described on the works plans as Works No. 6 – The provision of structural landscaping and two community parks including:

(c) earthworks including the creation of screening bunds² [...]”

22. There is no change to the extent of Works Nos. 4 and 6, which remain as per those defined on the Works Plans (Document Nos. 2.2 – 2.2I).

23. The following certified plans define the target AOD height of the finished A5/A449 Link Road:

- The Development Zone Parameters Plan (Document Nos. 2.5 – 2.5D)
- The Floor Levels and Building Heights Parameters Plan (Document Nos. 2.6 – 2.6D)
- The Green Infrastructure Parameters Plan (Document Nos. 2.7 - 2.7D)

24. These plans are proposed to be amended to change one finished road level AOD height from +105.6m to +107.2m AOD. The submitted revised plans are listed in Section 4 of this Statement.

² NB: the description of this authorised Works No. excludes sub-parts which are not considered to be relevant to the proposed change.

Section 3: Environmental Implications

Scoping

25. The Original DCO was accompanied by an 2018 ES prepared by Ramboll Limited and supporting technical specialists on behalf of FAL³. The 2023 NMC was accompanied by an Environmental Implications Report ('2023 EIL') which provided a review of the now-consented design changes, the amended development as a whole, in the context of the assessment findings reported in the 2018 ES.
26. Having regard to the Planning Act 2008 Guidance⁴, consideration has been given to whether the proposed amendments to the Order give rise to any:
 - a. New significant effects that were not identified in the 2018 ES for the consented project; or
 - b. Materially different effects when compared to the effects set out in the 2018 ES for the consented project.
27. There is no specific explanation in the Planning Act 2008 Guidance or topic-specific technical guidance on what constitutes a material change and as such this is based on professional judgement. Schedule 6, paragraph 2(2) of the Planning Act 2008 states: "In deciding whether a change is material, the [Secretary of State] must have regard to the effect of the change, together with any previous changes made under this paragraph, on the development consent order as originally made." The assessment has therefore considered the environmental implications of the Proposed NMC in combination with effects arising from the 2023 NMC.
28. Consideration has also been given as to whether the proposed amendments would constitute EIA Development for the purposes of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Schedule 2(13) sets out that a change to a Schedule 1 or Schedule 2 (1)-(12) development which has already been authorised would be considered EIA Development if the change "*may have significant adverse effects on the environment.*" In doing so, the effect of the changes on the overall project have been considered to identify whether there are other, project-wide significant effects, that need to be taken into account.
29. The proposed amendment summarised in Section 2 has been assessed against all topics previously considered in the 2018 ES to identify the potential environmental effects, and whether this could result in new or materially different significant effects to those identified in the 2018 ES.
30. Due to the localised and minor nature of the Proposed NMC, the scope of the EIA is considered to remain valid as the proposed amendment is not predicted to give rise to new significant effects in respect of those topics previously scoped out of the 2018 ES. Accordingly the following scoped-out topics have not been assessed:
 - Waste;

³ A number of updated technical assessments were submitted following the submission of the application. For the purpose of this section, the '2018 ES' refers to the original 2018 ES, as amended by the updated technical assessments.

⁴ Planning Act 2008: Guidance on Changes to Development Consent Orders, DCLG (December 2015).

- Telecommunication Interference;
- Light Spillage;
- Daylight, Sunlight and Overshadowing;
- Wind Microclimate; and,
- Aviation.

Consideration of the Certified Environmental Statement

31. Section 3 of this Statement has considered whether the proposed amendment to the Order give rise to any:
 - a) New significant effects that were not identified in the 2018 Environmental Statement (“ES”) for the consented project; or,
 - b) Materially different effects when compared to the effects set out in the 2018 ES for the consented project.
32. Consideration has also been given as to whether the proposed amendments would constitute EIA Development for the purposes of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Schedule 2(13) sets out that a change to a Schedule 1 or Schedule 2 (1)-(12) development which has already been authorised would be considered EIA Development if the change “*may have significant adverse effects on the environment.*” In doing so, the effect of the changes on the overall project have been considered to identify whether there are other, project-wide significant effects, that need to be taken into account.
33. It is considered that the proposed amendment would not result in any new or different significant environmental effects for the reasons set out in Section 3 of this Statement.
34. This section should be read alongside the 2018 ES and the 2023 EIL. The 2023 EIL provides relevant context as it assessed the 2023 NMC in the context of the assessment findings reports in the 2018 ES. It provides information which enables the Secretary of State to have due regard to Schedule 6, paragraph 2(2) of the Planning Act 2008, as described earlier in this section. Due to the size of the 2018 ES, it has not been appended but can be provided in electronic format. The 2023 EIL and associated appendices are submitted as a separate report for information only, given that it provides useful context in relation to The West Midlands Rail Freight Interchange (Amendment) Order 2023 and updated baseline information.

The 2024 Amended Development

35. As described in Section 2, the scope of the amendment to be considered in terms of environmental effects comprises:
 - Proposed increase of finished road level height from +105.6m AOD as consented by the 2023 NMC to +107.2m AOD. This represents a potential height increase of +1.6m AOD. However, this should be considered in the context of the Original DCO Parameters Plan finished road level height of +106.5m AOD, which represents a potential height increase of +0.7m AOD relative to that on the Original DCO Parameters Plans.
 - As bunding adjacent to the A5/A449 Link Road is set relative to the finished road level height, this would result in a potential height increase of adjacent landscaped bunding of +1.6m AOD compared with the consented 2023 NMC. However, this should be considered in the context of the Original DCO Parameters Plans, against which the

proposed amendment represents a potential height increase in the bunding height of +0.7m AOD compared with that permitted by the Original DCO Parameters Plans.

- No changes to the spatial extent of the A5/A449 Link Road nor its specification – i.e. no change in its capacity or function compared with that assessed in the 2018 ES.
- No changes to the proposed sitewide surface water drainage strategy beyond those already consented by the local planning authority pursuant to Requirement 27(2) which allows for the revision of the approved Site-Wide Surface Water Drainage Strategy in 2018 ES Appendix 16.3 (ref: 21/01261/COND6).
- For clarity, no other amendments are sought and no other changes to the construction phase or operational phase development would arise.

36. Given the de minimis nature of the proposed amendment in the context of the authorised development, the environmental implications of the proposed amendment are considered as follows:

Agriculture and Soils

- **Demolition and Construction:** the proposed amendment does not change the extent or phasing of the proposed construction as assessed in the 2018 ES and 2023 EIL. Therefore, no new or materially different significant effects would arise and the conclusion presented in the 2018 ES and 2023 EIL are considered to remain valid.
- **Completed Development:** Given the effects to agriculture and soils from the proposed development would arise during the demolition and construction stage only, the proposed amendments would not result in any new residual effects during the completed development stage. Accordingly, the conclusions of the 2018 ES and 2023 EIL remain valid.

Air Quality

- **Demolition and Construction:** the proposed amendment does not change the extent or phasing of the proposed construction as assessed in the 2018 ES and 2023 EIL. Therefore, no new or materially different significant effects would arise and the conclusion presented in the 2018 ES and 2023 EIL are considered to remain valid.
- **Completed Development:** the proposed amendment does not affect the operational capacity of the A5/A449 Link Road and would not have an impact on trip generation. Therefore, no new or materially different significant effects would arise and the conclusion presented in the 2018 ES and 2023 EIL are considered to remain valid.

Archaeology (Buried Heritage Assets)

- **Demolition and Construction:** the proposed amendment does not change the extent of the proposed construction as defined in the Parameters Plans which informed the 2018 ES assessment. Therefore, no new or materially different significant effects would arise and the conclusion presented in the 2018 ES and 2023 EIL are considered to remain valid.
- **Completed Development:** as per the 2018 ES, following the cessation of construction activities, it is expected that no additional direct impacts to archaeological receptors would occur during the operation of the amended proposed development. Accordingly, no effects are predicted to arise, consistent with the findings of the 2018 ES and 2023 EIL.

Cultural Heritage

- **Demolition and Construction:** whilst the proposed amendment would result in a potential localised increase of landscaped bund height located circa. 100 metres to the east of the Canal Conservation Area of up to 1.6 metres compared with the 2023 NMC, it would result in a potential increase of landscaped bund height of 0.7 metres compared with the Original DCO Parameters Plans which informed the 2018 ES assessment. The Staffordshire and Worcestershire Canal is set lower than the proposed A5/A449 Link Road and is bordered by an existing dense tree line along its eastern bank, screening views towards the proposed A5/A449 Link Road. In terms of potential impact on Listed Buildings, the proposed alteration would be circa. 250 metres south-east of Grade II listed Wharf Cottage and Grade II listed The Round House. The 2018 ES and 2023 EIL surmised that the impact on these two Listed Buildings would be negligible, and given the distance and intervening dense tree line along the eastern bank of the Staffordshire and Worcestershire Canal, this effect would remain unchanged. The nature of the construction works would not result in a change of in the predicted magnitude of impact on the Canal Conservation Area and the environmental controls set out in ODCEMP remain valid. Accordingly, the conclusions of the 2018 ES and 2023 EIL remain valid.
- **Completed Development:** whilst the proposed amendment would result in a potential localised increase of landscaped bund height located circa. 100 metres to the east of the Canal Conservation Area, the predicted impacts on the Conservation Area would remain unchanged. Similarly, the predicted impacts on Grade II listed Wharf Cottage and Grade II listed The Round House would remain negligible, as described in relation to the demolition and construction impact above. Accordingly, the conclusions of the 2018 ES and 2023 EIL remain valid.

Ecology and Nature Conservation

- **Demolition and Construction:** in consideration of the updated baseline conditions presented in the 2023 EIL, the proposed amendment is unlikely to affect the demolition and construction phase assumptions or the assessment of effects undertaken for the construction phase, as reported in Chapter 10 of the ES. The proposed does not change the extent of the proposed construction as defined in the Parameters Plans which informed the 2018 ES assessment. Therefore no new or materially different significant effects would arise and the conclusion presented in the 2018 ES and 2023 EIL are considered to remain valid.
- **Completed Development:** in consideration of the updated baseline conditions presented in the 2023 EIL, the proposed amendment is unlikely to affect the operational phase assumptions or the assessment of effects undertaken for the operational phase, as reported in Chapter 10 of the 2018 ES. The proposed amendment is not anticipated to affect the agreed ecological mitigation and compensation measures detailed. Accordingly, no new or materially different significant residual effects would arise and the conclusions presented in the 2018 ES and 2023 EIL are considered to remain valid.
- **Habitat Regulations Assessment:** the proposed amendment is not considered to change the assessment due to the Site distance, lack of connectivity and designation qualifying features. No likely significant effects are anticipated from direct physical effects, noise, water quality or from changes in ambient air quality.

Ground Conditions

- **Demolition and Construction:** the proposed amendment does not change the extent of the proposed construction as defined in the Parameters Plans which informed the 2018 ES assessment. The baseline conditions relating to the area of proposed change remain consistent with those used to inform the 2018 ES and as such no further risks from contamination are likely. As such, no new or materially different significant residual effects would arise and the conclusions presented in the 2018 ES and 2023 EIL are considered to remain valid.
- **Completed Development:** as above, considering the baseline conditions remain consistent with those used to inform the 2018 EIA, no further risks are likely and the mitigation proposed in the 2018 ES is considered to remain valid. Accordingly, the residual risks summarised within 2018 ES Chapter 11 and 2023 EIL remain valid.

Landscape and Visual Impact

- **Demolition and Construction:** whilst the proposed amendment would result in a potential localised increase of landscaped bund height adjacent to the Staffordshire and Worcestershire Canal (and Conservation Area) of up to 1.6 metres compared with the 2023 NMC, it would result in a potential increase of landscaped bund height of 0.7 metres compared with the Original DCO Parameters Plan which informed the 2018 ES assessment. The nature of the construction works would not result in a change in the predicted magnitude of impact on the landscape of this stretch of the Canal and no change to the stated overall levels of landscape and visual effects for the receptor groups and no change to the stated overall conclusions of the 2018 ES Chapter 12. Accordingly, the conclusions of the 2018 ES and 2023 EIL remain valid.
- **Completed Development:** the proposed amendment would not change the stated overall levels of landscape and visual effects for the receptor groups and therefore would not change the stated overall conclusions of the 2018 ES Chapter 12 for the reasons summarised below:
 - The landscaped bund to the east of the Canal will remain effective in visually screening and filtering views towards the proposed development, including from the towpath and properties and receptors along Croft Lane. Views eastwards and south eastwards towards the higher parts of the proposed building(s) beyond the landscape bund will still be possible from these receptors yet this reflects the same position as previously assessed and stated in the 2018 ES Chapter 12 and the 2023 EIL. A short and localised part of the proposed landscape bund will be slightly higher relative to the Canal and Croft Lane yet this will not be material in landscape or visual terms, in comparison to the 2018 ES or 2023 EIL.
 - Accordingly, the conclusions of the 2018 ES and 2023 EIL remain valid.

Noise and Vibration

37. The 2023 EIL that accompanied the 2023 NMC application considered the results of an updated baseline noise survey prepared as part of the Bespoke Noise Insulation Scheme ('BNIS'), which was required by Clause 2 in Schedule 6 of the Development Consent Obligation. It was concluded that the updated noise baseline had potential for noise impacts at properties south-east of the site to be materially worse than were set out in the Original DCO application, irrespective of any changes to the DCO, i.e. a material worsening resulting from the baseline alone.

- **Demolition and Construction:** the proposed change would not alter the demolition and construction phase information on which the assessment of effects was undertaken for the construction phase, as presented in Chapter 13 of the 2018 ES and the Chapter 13 Addendum dated 05 April 2019 ("the 2019 ESA") which accompanied the Original DCO application. Accordingly, there is no change to the conclusions of the 2018 ES and 2019 ESA. The 2023 updated baseline does not alter this conclusion, since the baseline sound levels inform the assessment criteria and the most stringent thresholds have already been adopted.
- **Completed Development:**
 - The proposed change would not affect the assessment of effects relating to off-site road traffic noise as a result of the operation of the proposed development, as presented in Chapter 13 of the 2018 ES and 2019 ESA. The updated baseline would also not alter the assessment of effects since the measured baseline sound levels are not factored into the assessment of off-site road traffic noise. Accordingly, there is no change to the conclusions of the 2018 ES in respect of effects resulting from off-site road traffic noise.
 - Compared to the 2023 NMC, the change in the Proposed NMC is not predicted to lead to any changes in noise levels from on-site operations, except at a single receptor, Comox, where the noise level is predicted to increase

by 1dB during the night-time period. However, this increase is not predicted to result in any change to the previously identified impact category, and therefore there is no new or materially different likely significant effect.

- Compared to the Original DCO application, the combined changes introduced by the 2023 NMC and the Proposed NMC are predicted to result in the same outcomes as set out in the 2023 EIL: changes in noise levels from on-site operations of no more than ± 2 dB are predicted, except at one receptor, Craigmore, where a change of +3dB was identified in the 2023 EIL. No changes have been identified as arising from the Proposed NMC. The combined impact of the 2023 NMC and the Proposed NMC would not lead to new or materially different likely significant effects.
- As previously noted, the 2023 EIL took into account an updated noise baseline, which found that background sound levels had decreased at locations to the south-east of the WMI site. As described in the 2023 EIL, the result of these decreased background sound levels is that likely significant effects are now predicted at five locations where they were not previously predicted in the Original DCO application. However, since it is the change in baseline levels that gives rise to the additional five likely significant effects, rather than the proposed changes to the scheme, and the change in baseline has occurred independently of the scheme, the additional five likely significant effects would occur even if the scheme assessed in the Original DCO application was not amended.
- There was also an error in the noise modelling used in the Original DCO application that was corrected in the noise modelling for the 2023 NMC, and the correction has been retained for the Proposed NMC.
- This results in two likely significant effects that were predicted in the Original DCO application falling away, leaving a net increase of three additional likely significant effects; however, as noted previously, these are due to the change in baseline rather than the proposed amendments to the scheme, and would occur even if the Original DCO was not amended. This is the same position as assessed in the 2023 EIL.

Socio-Economics and Human Health

- **Demolition and Construction:** the duration of the demolition and construction programme would remain materially unchanged as a result of the proposed amendment and there is not anticipated to be any material change in construction employment generated. As the spatial extent of the demolition and construction works would remain virtually the same, the effects relating to recreation and amenity and human health would also remain the same. Accordingly, no new or materially different significant residual effects would arise and the conclusions presented in the 2018 ES and 2023 EIL are considered to remain valid.
- **Completed Development:** given the proposed amendment would not alter the quantum of land uses being delivered, the economic effects of the proposed development would remain the same. Accordingly, no new or materially different significant residual effects would arise and the conclusions presented in the 2018 ES and 2023 EIL are considered to remain valid.

Transport and Access

- **Demolition and Construction:** The proposed amendment changes would not give rise to a change in construction vehicle trips, nor would the amended phasing strategy alter the assumptions used to inform the construction vehicle trips (i.e. the overall duration of the demolition and construction programme remains valid, as well as the worst-case assumptions around the potential simultaneous works. Whilst the amended phasing strategy may result in traffic increases on certain roads, these changes would not be permanent and would be limited in duration. The construction traffic routing would be managed and mitigated in accordance with the amended Demolition and Construction Traffic Management Plan which has been approved by Staffordshire County Council as local highways

authority. Accordingly, no new or materially different significant residual effects would arise and the conclusions presented in the 2018 ES and 2023 EIL are considered to remain valid .

- **Interim and Completed Development:** The proposed amendment would not alter the quantum or type of land uses being delivered and the trigger points for the delivery of infrastructure and mitigation would remain as that secured by the Original DCO. There would be no change to the horizontal geometry of the infrastructure, therefore there would be no change to highway capacity. The 2018 EIA reported a worst case in terms of the assessment of effects therefore the transport effects of the proposed development would be no worse than those shown previously. Accordingly, no new or materially different significant residual effects would arise and the conclusions presented in the 2018 ES and 2023 EIL are considered to remain valid.

Water Environment and Flood Risk

- **Demolition and Construction:** the proposed amendment would not alter the demolition and construction methods and the mitigation to be implemented through the Outline Demolition and Construction Environmental Management Plan which formed part of the 2018 ES (Appendix 2.3 of Document 6.2 dated 05 July 2019). Accordingly, no new or materially different significant residual effects would arise in relation to Demolition and Construction for all Water Environment and Flood Risk receptors and the conclusions presented in the 2018 ES and 2023 EIL are considered to remain valid.
 - **Completed Development:** the proposed amendment does not result in any changes to the overall sitewide drainage strategy, which informed the 2018 ES assessment. Based on the above considerations and the validity of the drainage strategy, the proposed amendments would therefore not alter the assessment of effects presented in the 2018 ES and 2023 EIL and the conclusions remain valid.
38. As the Proposed NMC is non-material and, as confirmed in this review, does not result in any new or materially different likely significant effects on the environment, the Proposed NMC would not result in any new or amended cumulative effects compared with those assessed in the 2018 ES and considered in the 2023 EIL.
39. Any new or amended cumulative schemes that have come about since the 2018 ES was undertaken are required to include the Original DCO within the cumulative assessment and consider and mitigate against the potential for inter-development cumulative effects. Therefore, given the non-material nature of the change proposed, no further consideration has been given to the potential for in-combination effects with cumulative schemes.

Section 4: Amendments to the Order

40. A draft West Midlands Rail Freight Interchange (Amendment No. 2) Order (the “Draft Amendment Order”) has been prepared alongside this Application Statement.
41. Schedule 15 of the Order, which lists the Certification Documents, is replaced with the table set out in Schedule 1 of Draft Amendment Order to incorporate the updated revision numbers for the Certification Documents which have been amended to reflect the non-material changes to the authorised development. The following Certification Documents are superseded and proposed to be replaced:

Table 4.1: Certification Documents to be Replaced

CERTIFICATION DOCUMENT REFERENCE TO BE SUPERSEDED	PROPOSED REPLACEMENT CERTIFICATE DOCUMENT REFERENCE
Key Plan Document No. 2.5 – Parameters Plan Development Zone Plan 4990-02000 Rev 08	Key Plan Document No. 2.5 – Parameters Plan Development Zone Plan 4990-02000 Rev 11
Parameter Plan Development Zone Plan – Sheet 1 Document No. 2.5A 4990-02001 Rev 08	Parameter Plan Development Zone Plan – Sheet 1 Document No. 2.5A 4990-02001 Rev 11
Parameter Plan Development Zone Plan – Sheet 3 Document No. 2.5C 4990-02003 Rev 09	Parameter Plan Development Zone Plan – Sheet 3 Document No. 2.5C 4990-02003 Rev 12
Key Plan Document No. 2.6 - Parameter Plan Floor Levels & Building Heights 4990-02010 Rev 08	Key Plan Document No. 2.6 - Parameter Plan Floor Levels & Building Heights 4990-02010 Rev 12
Parameter Plan – Floor Levels & Building Height Plan Sheet 1 Document No. 2.6A 4990-02011 Rev 07	Parameter Plan – Floor Levels & Building Height Plan Sheet 1 Document No. 2.6A 4990-02011 Rev 11
Parameter Plan – Floor Level & Building Height Plan Sheet 3 Document No. 2.6C 4990-02013 Rev 08	Parameter Plan – Floor Level & Building Height Plan Sheet 3 Document No. 2.6C 4990-02013 Rev 11
Key Plan Document No. 2.7 – Parameters Plan Green Infrastructure Plan 4990-02020 Rev 11	Key Plan Document No. 2.7 – Parameters Plan Green Infrastructure Plan 4990-02020 Rev 14
Parameters Plan – Green Infrastructure Plan – Sheet 1 Document No. 2.7A 4990-02021 Rev 10	Parameters Plan – Green Infrastructure Plan – Sheet 1 Document No. 2.7A 4990-02021 Rev 13
Parameters Plan – Green Infrastructure Plan – Sheet 3 Document No. 2.7C 4990-02023 Rev 11	Parameters Plan – Green Infrastructure Plan – Sheet 3 Document No. 2.7C 4990-02023 Rev 14

Section 5: Stakeholder Engagement

42. Pre-application discussions have been held with the following consultees in advance of making this application. A proportionate approach has been taken to stakeholder engagement, given that the proposed amendment relates to a small area of the site and scope of physical change in finished road level on the A5/A449 Link Road and associated adjacent landscaped bund is minimal in nature.

South Staffordshire District Council

43. The Site falls within the administrative district of South Staffordshire. The Applicant's project team met with District Council Officers on 21st July 2024 to present and discuss the proposed amendments and the non-material change process. This meeting was held in relation to the draft detailed design approval submission for the A5/A449 Link Road West (ref: 24/00612/WMI), which is not subject to the constraint posed by the current finished road level defined on the Parameters Plans. No issues or concerns were raised by South Staffordshire Council Officers in connection with the proposed non-material change.

Staffordshire County Council

44. The Site falls within the administrative district of Staffordshire County Council ("SCC"), which is the local highway authority and lead local flood authority. The Applicant's project team is currently engaged with the local highway authority in relation to the technical approvals process for the entirety of the A5/A449 Link Road 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. The Applicant advised SCC on 14th August 2024 regarding the proposed non-material change.
45. No issues or concerns have been raised by Staffordshire County Council Officers in connection with the proposed non-material change.

Canal and River Trust

46. Part of the rationale for the proposed amendment is 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. The Applicant's project team is currently engaged with Canal and River Trust regarding the detailed design and delivery of the proposed culvert. The Applicant updated Canal and River Trust on 15 October 2024 regarding the proposed non-material change.
47. No issues or concerns have been raised by Canal and River Trust Officers in connection with the proposed non-material change.

Regulation 7(3) Process

48. In advance of making this non-material change application submission, the Applicant made a request to the Secretary of State on 10 September 2024 under Regulation 7(3) of the Infrastructure Planning (Changes to and Revocation of, Development Consent Orders) Regulations 2011 to agree the parties the Applicant proposes to directly consult on the NMC application, and the parties that the Applicant does not intend to directly consult, with this request also setting out the reasons why these parties should be consulted or excluded.
49. The Secretary of State provided a written response to this request on 18 September 2024, confirming that it agrees with the Applicant's proposed consultation lists.

Section 6: Assessment of the Application and Conclusions

Guidance on Changes to Development Consent Orders

50. Guidance on making changes to Development Consent Orders was issued by the (then) Department for Communities and Local Government in December 2015⁵.
51. Paragraph 9 of the Guidance confirms that neither the 2008 Act⁶ nor the 2011 Regulations⁷ provide any definition of a material or non-material change. Paragraph 10 notes that given the range of infrastructure projects that are consented through the 2008 Act, and the variety of changes that could possibly be proposed for a single project, the Guidance cannot, and does not attempt to, prescribe whether any particular types of change would be material or non-material and such decisions will inevitably depend on the circumstances of the specific case.
52. Paragraph 11 goes on to note that there may however be certain characteristics that indicate that a change to a consent is more likely to be treated as a material change. Paragraphs 12 to 16 then go on to describe four examples of such characteristics:
- *“A change should be treated as material if it would require an updated Environmental Statement (from that at the time the original Development Consent Order was made) to take account of new, or materially different, likely significant effects on the environment” (paragraph 12);*
 - *“A change to a Development Consent Order is likely to be material if it would invoke a need for a Habitats Regulations Assessment. Similarly, the need for a new or additional license in respect of European Protected Species is also likely to be indicative of a material change...” (paragraph 14);*
 - *“A change should be treated as material that would authorise the compulsory acquisition of any land, or an interest in or rights over land, that was not authorised through the existing Development Consent Order...” (paragraph 15); and,*
 - *“The potential impact of the proposed changes on local people will also be a consideration in determining whether a change is material. In some cases, these impacts may already have been identified, directly or indirectly, in terms of likely significant effects on the environment. But there may be other situations where this is not the case and where the impact of the change on local people and businesses will be sufficient to indicate that the change should be considered as material. Additional impacts that may be relevant to whether a particular change is material will be dependent on the circumstances of a particular case, but examples might include those relating to visual amenity from changes to the size or height of buildings; impacts on the natural or historic environment; and impacts arising from additional traffic” (paragraph 16).*

⁵ Planning Act 2008: Changes to Development Consent Orders (December 2015), Department for Communities and Local Government

⁶ Planning Act 2008

⁷ The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (as amended)

53. In accordance with recent decisions, including in relation to The West Midlands Rail Freight Interchange (Amendment) Order 2023 issued by the Secretary of State on 25 October 2023, although the above characteristics indicate that a change to a consent is more likely to be treated as a material change, they only form a starting point for assessing the materiality of a change and each case must depend on a thorough consideration of its own circumstances.

Assessment of Whether the Proposed Amendment is Material

54. In overall conclusion, and with regards to the Guidance, it is considered that the proposed amendment is non-material for the reasons explained below.

Consideration of New or Materially Different Likely Significant Environmental Effects

55. Consideration has been given to whether the proposed amendment would give rise to any:
- a. New significant effects that were not identified in the Environmental Statement ('ES') for the consented project; or
 - b. Materially different effects when compared to the effects set out in the ES for the consented project.
56. Schedule 6, paragraph 2(2) of the Planning Act 2008 states: *"In deciding whether a change is material, the [Secretary of State] must have regard to the effect of the change, together with any previous changes made under this paragraph, on the development consent order as originally made."*
57. The above has been assessed in Section 3 of this Report (Environmental Implications) which presents the results of a review undertaken by FAL's appointed technical specialist team to determine whether the proposed design changes would give rise any new or materially different, likely significant effects on the environment to those set out in the 2018 ES. The assessment has also considered the Proposed NMC in the context of change affected by the 2023 NMC.
58. Due to the minimal nature of the Proposed NMC, it is considered that the scope of the 2018 ES remains valid and that, in combination with the effects of the 2023 NMC, the Proposed NMC would not be material
59. In respect of topics previously scoped in to the 2018 EIA, no new or materially different significant residual effects would arise with respect to Agricultural and Soils; Air Quality; Archaeology; Cultural Heritage; Ground Conditions; Ecology and Nature Conservation; Landscape and Visual Impact; Noise and Vibration; Socio-Economics and Human Health; Transport and Access; and Water Environment and Flood Risk, and the conclusions presented in the 2018 ES and 2023 EIL are considered to remain valid for both the demolition and construction stage and completed development stage.
60. As such, the original ES results and conclusions remain valid in the context of the amended proposed development. No new significant effects or materially different effects to those identified previously are identified as a result of the proposed amendment, considering the combined effects arising from the 2023 NMC and this NMC application

Requirement for Habitat Regulation Assessment or European Protected Species Licence

61. In addition to the 2018 ES, the Original DCO was accompanied by a Habitats Regulations Statement – No Significant Effects Report (dated July 2018). European Sites within 10km of the Site were identified, with an assessment of 'Likely Significant Effects': Cannock Chase SAC, Motte Meadows SAC and Cannock Extension Canal SAC.

62. A change to a Development Consent Order might be considered as material in terms of the Habitats Regulations if:
- a. The change itself is likely to have a new significant effect on a European site (or a European offshore marine site) or will add to the significant effects on such site and will therefore need a Habitat Regulations Assessment; and/or,
 - b. The change will result in the need for a license, or a change to an existing license for a European Protected Species.
63. In addition to the 2018 ES, the Original DCO application was accompanied by a Habitats Regulations Statement – No Significant Effects Report (dated July 2018). European Sites within 10km of the Site were identified, with an assessment of ‘Likely Significant Effects’: Cannock Chase SAC, Motte Meadows SAC and Cannock Extension Canal SAC. This report concluded that the proposed development was not likely to have a significant effect on any European Sites, either alone or in combination with other projects and plans. As a result, it was concluded that an Appropriate Assessment was not required. This position was agreed by Natural England, and accepted by the Examining Authority’s Report of Findings and Conclusions⁸ and the Secretary of State’s decision dated 4th May 2020.⁹
64. Due to the site distance, lack of connectivity and designation qualifying features, and the nature of the proposed amendments in terms of their scale and characteristics, the proposed amendments are not considered to result in new significant effects on any European site, alone or in-combination. Accordingly, the conclusions of the Habitat Regulations Statement remain valid, and an Appropriate Assessment is not required. The changes will not require a Habitats Regulations Assessment and will not result in the need for any European Protected Species licences.

Requirement for Compulsory Acquisition of Land or Rights not Already Authorised Through the Order

65. There is no requirement for compulsory acquisition of land or rights not already authorised through the Order, therefore no amendments to the powers of acquisition set out in the Order, or changes to the Book of Reference and certified Land Plans, are sought or needed.

Impacts on Local Businesses and Residents

66. As explained in Section 3, the review undertaken by the consultant team show that the Proposed NMC is not expected to have any new or materially different residual effects to those reported in the 2018 ES or 2023 EIL. The proposed amendment itself will not cause any new or materially different significant environmental effects to be experienced by residents and businesses compared to those impacts that will occur as a result of the already consented development.

Overall Conclusion

67. For the reasons explained in the paragraphs above, and when assessed against the four matters set out at paragraphs 12 to 16 of the Guidance, the Applicant considers that the proposed amendment sought is not material. Additionally, there are no other considerations that indicate that the proposed amendments sought by the Amendment Order are material as opposed to non-material changes to the Authorised Development. It is considered that this Statement provides sufficient evidence to enable the Secretary of State to appropriately

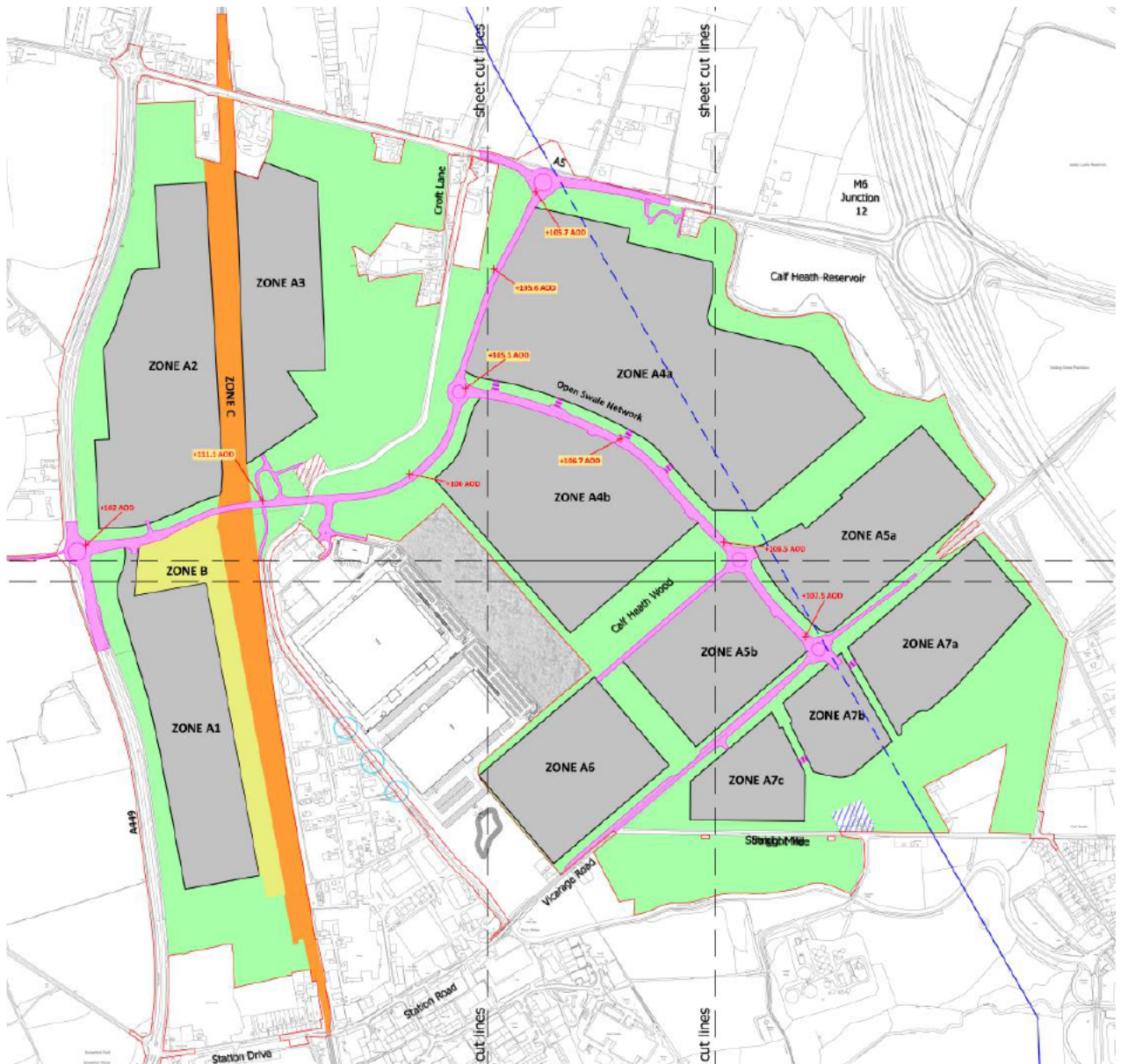
⁸ Paragraphs 8.5.1 and 8.5.2

⁹ Paragraph 62

consider Schedule 6, paragraph 2(2) of the Planning Act 2008, which requires the Secretary of State to have regard to the effect of this proposed change, together with the 2023 NMC. The proposed application should therefore be dealt with under the procedures for non-material changes as set out in the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (as amended).

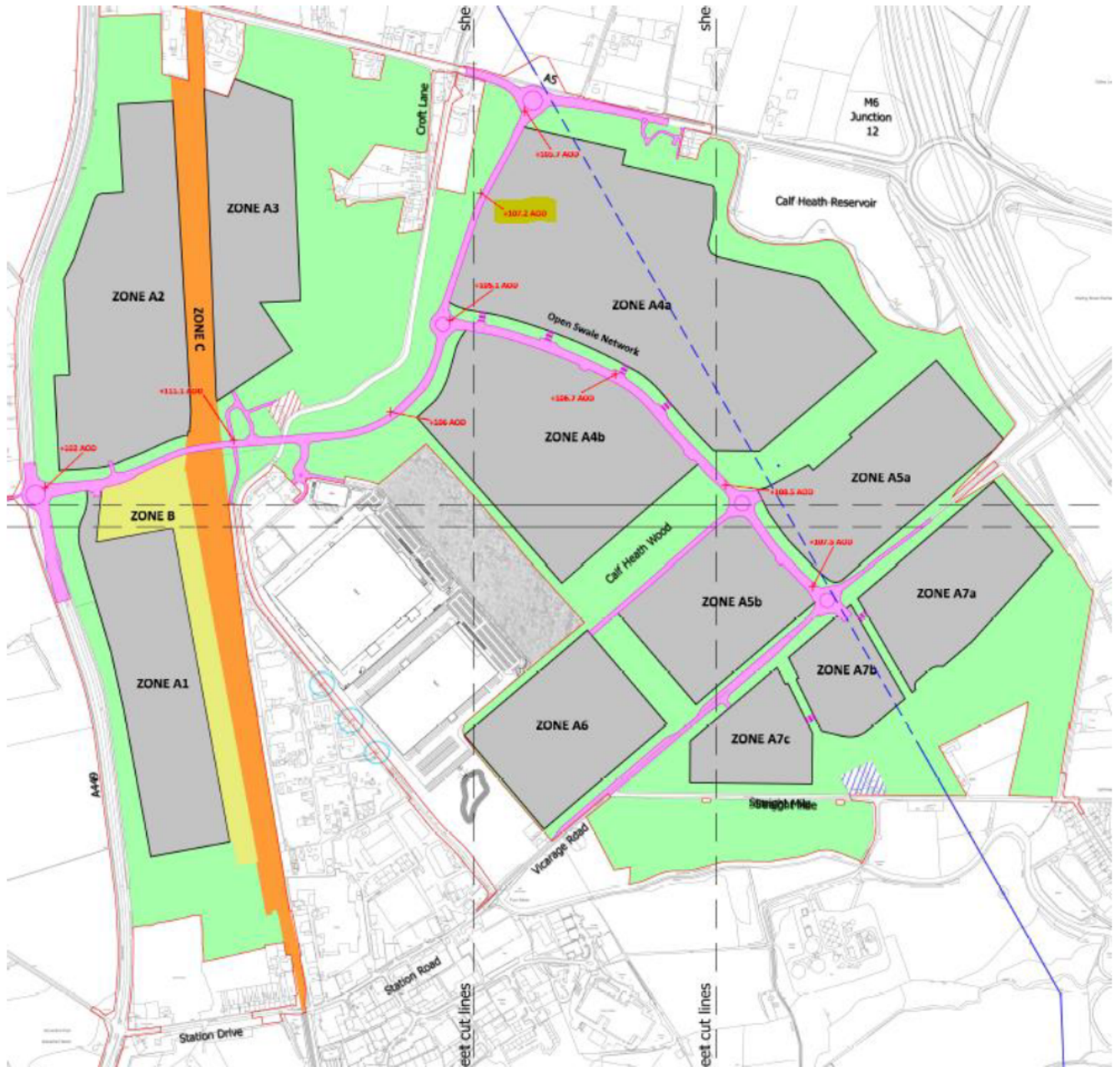
Appendix A - A5/A449 Link Road Height Changes - Plan Extract

Existing Road Heights (as consented pursuant to the 2023 NMC)



Note: extract taken from Proposed Document No. 2.5 "Development Zone Parameter Plan Key Plan" (Drawing No. 4990-02000 Rev 08). Extract not to scale and provided for information purposes only.

Proposed Road Heights (subject to this Proposed NMC)



Note: extract taken from Proposed Document No. 2.5 "Development Zone Parameter Plan Key Plan" (Drawing No. 4990-02000 Rev 11). Extract not to scale and provided for information purposes only.

Thank you

For more information

Richard Brown MRTPI
Senior Director

[\[REDACTED\]@cbre.com](#)

Mark McFadden MRTPI
Director

[\[REDACTED\]@cbre.com](#)