



NORTHAMPTON
GATEWAY
STRATEGIC RAIL FREIGHT INTERCHANGE

**APPLICANT'S RESPONSES TO OTHER PARTIES'
DEADLINE 2 SUBMISSIONS**

DOCUMENT 8.9

The Northampton Gateway Rail Freight Interchange Order 201X

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ROXHILL

THE NORTHAMPTON GATEWAY RAIL FREIGHT INTERCHANGE ORDER 201X

Applicant's Responses to Other Parties' Deadline 2 Submissions – Document 8.9

1. This document sets out the Applicant's responses to other parties' submissions to the ExA made at **Deadline 2**.
2. No attempt has been made to respond to every single submission. The responses have focused on issues thought to be of most assistance to the ExA. Where points have been raised by various parties, the Applicant has responded only to one particular party, but the responses are applicable to all parties who have made the same point.
3. The Applicant does not seek to respond to all the points made where the Applicant's response is already contained within:
 - a. the Application; or
 - b. submissions made since the Application was accepted, including:
 - i. the Applicant's Response to Relevant Representations (**Document 8.3**, REP1-022);
 - ii. the Applicant's Responses to the ExA's first written questions (**Document 8.2**, REP1-020 and REP1-021) submitted at **Deadline 1**;
 - iii. the Applicant's Responses to Local Impact Reports (**Document 8.6**, REP2-009);
 - iv. the Applicant's Responses to written representations and other parties' responses to the ExA's first written questions (**Document 8.7**, REP2-010); or
 - v. the Applicant's Responses to the various submissions made by the Ashfield Land Management Limited and Gazeley GLP Northampton s.a.r.l. in respect of Rail Central at **Deadline 1** (**Document 8.8**, REP2-011),save where it is thought helpful to repeat or cross refer to the information contained in the above documentation.
4. The Applicant's responses to submissions made by Ashfield Land Management Limited and Gazeley GLP Northampton s.a.r.l. in respect of Rail Central at **Deadline 2** (REP2-016) are dealt with separately in **Document 8.8A**.

Identity and PINS Reference	Other Party Response	Applicant's Response
<p>Highways England (HE)</p> <p>[PINS Ref: REP1-124]</p>	<p>ExQ1.11.2</p> <p><i>There is a Memorandum of Understanding (MoU) between Highways England, Northampton County Council, Daventry District Council, Northampton Borough Council and South Northamptonshire Council to work together to secure a series of improvements at M1 Junction 15 and along the A45 corridor to accommodate growth in the area. Improvements to J15 forms part of the Northampton Growth Management Scheme (NGMS), which relies on funding from housing developments in Local Plans only and not commercial developments.</i></p> <p><i>SMP improvements at J15 only relate to the upgrading of the main line only and does not include improving the actual junction at J15.</i></p> <p>AND</p> <p>ExQ1.11.18</p> <p><i>The NGMS applies to housing developments which have been identified are within an approved Local Plan. The Northampton Gateway development lies outside of these criteria. Hence we are not seeking a contribution.</i></p>	<p>The responses to these paragraphs state that the improvements to Junction 15 that form part of the NGMS rely on funding from housing developments in local plans only and not commercial developments.</p> <p>Although nothing is thought to turn on it, this is factually incorrect. The MoU involves contributions from commercial developments as well. The Applicant has paid such a contribution in relation to commercial development.</p> <p>The reason no contribution is sought from Northampton Gateway is because of the extensive works the Applicant is proposing to carry out to Junction 15, being works over and above works contained in the MoU.</p> <p>In addition, in ExQ 1.11.2 the ExA asked whether it was HE's view that appropriate capacity improvements to Junction 15 are only likely if led and funded by the proposed development. HE have not answered that question directly, however, attached, at Appendix 1, is an email from HE which clarifies the position, in requesting the Applicant not to include any improvements to Junction 15 in the Northampton Gateway reference case.</p>

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	N/A	<p>Point of Clarification</p> <p>Highways England have drawn to the Applicant's attention that it feels one aspect of the Applicant's response to their representation contained in Document 8.7 (REP2-010) misrepresents the SoCG entered into in respect of DCO Drafting (Document 7.1C). The issue relates to the response under the heading "Deemed Approval" on page 13 of Document 8.7.</p> <p>At the beginning of the second paragraph of the response the Applicant states "<i>The Applicant notes that the SoCG agreed with HE in this regard does not state that the deemed approval provisions in the articles of the dDCO are not agreed.</i>" Also, the fourth paragraph states that "<i>it now seems that HE are objecting to deemed approval within the articles and protective provisions, notwithstanding the content of the SoCG.</i>"</p> <p>Highways England feel this is misleading.</p> <p>The Applicant is happy to confirm that the position of Highways England is as set out in the SoCG, which is, that deemed approval provisions are not acceptable in relation to article 13 of the dDCO or the protective provisions, but are acceptable in relation to articles 11, 17 and 22 of the dDCO.</p>

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<p>South Northamptonshire Council (SNC)</p> <p>[PINS Ref: REP2-019]</p>	<p>ExQ1.0.9</p> <p><i>Annex1 to the NPPF 2018, makes clear existing policies should not be considered to be “out of date” simply because they pre-date the current version of the NPPF. Paragraph 213 states “However, existing policies should not be considered out of date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”.</i></p> <p><i>The reference within the applicant’s response to saved Policy EV8 being out of date because it predates the NNPF is erroneous.</i></p> <p><i>The emerging SNC Local Plan Part 2 does not include a specific policy to identify important local gaps, however the principles enshrined within saved policy EV8 are carried forward. Policy SS2, a generic policy, seeks to ensure that planning permission is granted for sustainable well designed development that will respect the context in which it will be set. This policy continues to recognise the importance of maintaining the individual identity of towns and</i></p>	<p>SNC suggest that the “<i>principles enshrined within saved policy EV8 are carried forward</i>” to the SNC Local Plan Part 2.</p> <p>The Applicant considers this to be misleading. Policy EV8 specifically identified ‘important local gaps’ whereas the emerging Local Plan Part 2 does not specifically identify any local gaps (as acknowledged by SNC in its response). Emerging policy SS2 relates to general principles and therefore cannot be said to carry forward the principles of a previously specifically identified local gaps.</p>

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	<p><i>villages and the significance of the open countryside between settlements to this. Policy SS2 states, inter alia,</i></p> <p><i>1. " Planning permission will be granted where proposed development :</i></p> <p><i>a. Maintains the individual identity of towns and villages and does not contribute to any significant reduction of open countryside between settlements or their distinct parts;"</i></p> <p><i>Neither saved Policy EV8 or emerging Policy SS2 is inherently inconsistent with, or is 'contrary to', the objective within the WNJCS to promote development in and adjoining the urban area of Northampton. These policies identify the importance assigned to the relationship between new development and existing settlements and provide principles to guide the consideration of this to ensure these will relate well to each other and to maintain the identity and character of existing settlement. The latter are intrinsic characteristics of the pattern of dispersed settlements of South Northamptonshire.</i></p>	
	<p>ExQ1.0.11</p> <p><i>The amount of mezzanine floorspace being sought amounts to circa 35% of the 'Total</i></p>	<p>The proposal includes an allowance for mezzanine floors, the extent of which is based on the extensive experience of</p>

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	<p><i>Maximum Floorspace for Zone A' identified on the Parameters Plan.</i></p> <p><i>Within the ES effects assigned to additional mezzanine floorspace vary from those assigned to the 'Total Maximum Floorspace' that will form the extent of the buildings, e.g. the number for new jobs assumed to be created per unit of mezzanine floorspace than is lower than that per unit of 'Total Maximum Floorspace'. The use to which mezzanine floorspace is put will however be significant to this effect, e.g. use as offices could result in more, rather than fewer, new jobs. The uses to which mezzanine floorspace may be put should therefore be clearly defined within the proposal and within the DCO, to ensure the use of mezzanine floorspace is consistent with the impacts evaluated within the ES and TA.</i></p>	<p>the Applicant. The implications of the mezzanine floors for assessment of traffic impact have been discussed and agreed with the Transport Working Group (see paragraphs 5.17 – 5.22 of Appendix 5 of the Transport Assessment (TA) (TN2: Trip Generation) (the TA is Appendix 12.1 of the Environmental Statement (Document 5.2)). The agreement reached reflects the fact that mezzanines are typically used for less dense operations and that the most significant constraint on the number of HGVs is the number of loading docks, which is unaffected by the addition of a mezzanine.</p> <p>The SoCGs with Northamptonshire County Council (Document 7.5, AS-006) and Highways England (Document 7.1, APP-382) confirm the agreement to the content of TN2.</p> <p>The inclusion of mezzanine as an element within the transport assessment was suggested by the Applicant in order to ensure that the transport assessment is robust.</p>
	<p>ExQ1.0.19</p> <p><i>The emergence of the significance of the "Golden Triangle" as a strategic location is primarily the result of the 'economics' of road based freight distribution. The 'economics' of rail freight distribution will differ from those of road thus the 'ideal' strategic locations are likely to differ.</i></p>	<p>SNC, Stop Roxhill Northampton Gateway and others have asserted that the economics of rail freight differ significantly to the economics of road based distribution in relation to the locational requirements of logistics businesses. No explanation is given as to how the locational requirements differ. It is the Applicant's position that there is no significant differences in the locational requirements because both</p>

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	<p><i>With respect to local demand for rail served warehousing DIRFT Phase 3 may be a helpful barometer. Although ground works for Phase 3 were undertaken last year, work to construct the new rail terminal is yet to commence.</i></p> <p><i>In determining areas served by SRFI'S catchment areas of 15km and 50km are referred to the Market Appraisal Report (para. 7.16). These are presented as assertions,</i></p> <p><i>"The 'core catchment' area around an SRFI terminal might be no more than 15 km". "However rail will be a viable option for other operators beyond this 'core' area, a secondary catchment of around 50 km is likely to incorporate the majority of logistics operators who would utilise a terminal". (bold italics for emphasis).</i></p> <p><i>Significantly the 50 km catchment around DIRFT includes the major urban areas in Northamptonshire - Corby, Kettering, Wellingborough, Northampton, as well as parts of Milton Keynes.</i></p> <p><i>A single study of destinations for freight leaving DIRFT by road is used to highlight the 'core catchment' of 15 km (paragraph 7.18 and figure 8). The single destination identified as generating the greatest number vehicle trips, outside of DIRFT, is Magna Park - 16%. Unsurprisingly this is some 15km distant from DIRFT. The significance of this destination for the 'core</i></p>	<p>road based and rail based freight distribution form part of the same logistics supply chain. In very simple terms, the ambition, as set out by the Government in the NPSNN, and indeed market opportunity, is to facilitate modal shift from road to rail, with rail replacing one or more of the road leg(s) of the supply chain journey. Paragraph 2.44 of the NPSNN makes clear that the aim of an SRFI is to optimise the use of rail 'in the freight journey'. In this regard SRFI's must be located at locations central to supply chain routes where they can facilitate the transfer of goods within a supply chain journey from rail to road, or road to rail.</p> <p>The Market Analysis Report (Document 6.8A, REP1-004) explains the economics of rail within the logistics sector and explains why there is a concentration of logistics activity in the Midlands and at Northampton. It is no coincidence that there is a concentration of existing SRFI's within the Midlands where there is a general concentration of logistics activity. It is also no coincidence there is a concentration of planned or proposed new SRFI's in the Midlands, where logistics activity is anticipated to continue to be concentrated. If it were the case, as suggested by SNC and others, that new SRFI should be located only in regions not currently served with SRFI's, then none of the proposed SRFI's in the Midlands would be acceptable. This might particularly be the case for the potential Hinckley National SRFI (which is advocated by SNC and others notwithstanding their arguments in relation to 'regions') which would be located within the existing network of SRFI's, compared to Northampton Gateway which would</p>

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	<p><i>catchment' of 15km identified should not be under estimated.</i></p> <p><i>Figure 8 however identifies the second largest category of destinations for 'lorries' leaving DIRFT to be 'Other' - 18%. The geographical location of these destinations is unclear, it would however appear to infer that significant use is made of the terminal to serve more distant destinations. DIRFT may thus be appropriately located, relative to the markets it serves, to serve the major urban centres, or groups of centres, and key supply chain routes within Northamptonshire.</i></p>	<p>expand the network in the Midlands to the south east. It is clear however that this is not the intention of the NPSNN which seeks simply to 'expand the network' of SRFI's with SRFI's located near to the business markets they will serve (para 2.56).</p> <p>Please also refer to the Applicant's response to Andrew Gough's written representation (REP1-065) (Document 8.7, REP2-10).</p>
	<p>ExQ1.0.22</p> <p><i>The applicant's comments do not appear to fully reflect Network Rail's 'Freight and National Passenger Operators Route (FNPO) Strategic Plan - February 2018'.</i></p> <p><i>This acknowledges in Section 5 that capacity constraints exist on the rail network and that the effect of these is to reduce forecasts for growth in rail freight (para. 5.7.1). Table 6.1 (page 30) identifies key capacity and/or capability gaps for identified rail freight corridors, based on the consensus achieved through the 2017 Freight Network Study.</i></p> <p><i>For the WCML this highlights gaps under the headings of :- Capacity Constraints, Diversionary Route Capability, Operational and Timetable</i></p>	<p>The Applicant refers to the SoCG with Network Rail (Document 7.13, REP1-016) where it is clearly stated that Network Rail agrees with the need for SRFI to encourage and facilitate a greater modal shift from road to rail (para 7), and further, at paras 8 -11, that Network Rail has heavily invested in enhancing freight capacity of the UK rail network to facilitate this (with reference to the Freight & National Passenger Operations Route Strategic Plan). Network Rail confirms that it is supportive in principle of additional SRFI provision at Northampton and has not identified the need for any network capacity enhancements.</p> <p>Reference is made to Hinckley – please see response above in respect of ExQ1.0.19.</p>

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	<p><i>Constraints, Line Speed Constraints Insufficient Gauge Clearance .</i></p> <p><i>It is presumed these gaps include the identified Northampton Loop enhancements (line speed and headway improvements).</i></p> <p><i>Appendix B summarises the challenges and opportunities with respect to the FNPO Route and the LNW (Geographic) Route. Point 2 identifies the following opportunities (O) and risks (R) with respect to Domestic & Deep Sea Intermodal Growth</i></p> <p><i>O: Volume growth from Ports/Terminals (Daventry, Hams Hall, Liverpool, Trafford Park)</i></p> <p><i>R: Train paths and SRT discrepancies with longer, heavier trains</i></p> <p><i>R: Capacity and capability, including gauge clearance and diversionary capability.</i></p> <p><i>Appendix C provides a summary of the investments options which are required to deliver benefits set out.</i></p> <p><i>These options are presented as choices for funders and none are committed schemes. It would thus appear Appendix C is not a comprehensive list of work that Network Rail considers to be necessary</i></p> <p><i>For the WCML Appendix C includes Northampton Loop enhancements (line speed and headway improvements - estimated cost of between £250m - £550m) which would be developed in CP6 (2019-2024) and delivered in CP7 (2024-2029).</i></p>	

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	<p><i>Appendix C however prioritises enhancements to the Felixstowe to West Midlands, and the Southampton to West Midlands, rail corridors which are shown to be delivered in CP6. These will link the major container ports of Southampton and Felixstowe directly to the Midlands through routes via Oxford and Peterborough respectively which would link to the WCML at Nuneaton and deliver key elements of the enhanced strategic rail freight network for the UK envisaged in paragraph 5.11.</i></p> <p><i>Proposed SRFI's, such as the Hinckley National Rail Freight Interchange, for which a DCO is expected to be submitted to in Q2 2019, would be strategically better located to take advantage of this enhanced strategic rail freight network.</i></p> <p><i>If the majority of trains accessing the Northampton Gateway RFI will travel via London this would not appear to align with the immediate priorities for investment in the strategic rail freight network.</i></p>	
	<p>ExQ1.0.28</p> <p><i>The Network Rail FNPO Route Strategy offers some insight into the chicken – egg conundrum. A RFI will facilitate the inter-modal movement of freight by rail and road, however unless the 'capacity' exists on the transport networks, both rail and road, this 'capability' is unlikely to be realised. It is essential that 'capability' and</i></p>	<p>Please see above in response to ExQ1.0.22.</p>

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	<p><i>'capacity' are developed coherently to realise the sustainable benefits envisaged in Government policy guidance. Investment in the rail infrastructure and the development of SRFI's must therefore be aligned otherwise the benefits for sustainability will not accrue.</i></p> <p><i>Network Rail, in the FNPO Route Strategy, prioritises immediate opportunities to develop capability for strategic intermodal facilities. These must however complement the prioritised investment in the rail infrastructure to improve the capacity for rail freight movements. In this context the current proposal is likely to provide an element of duplication in strategic intermodal capability given the proximity to DIRFT.</i></p> <p>Section 2.1 Route Overview 5th para. page 4) <i>This identifies that forecasting rail freight traffic is a process fraught with "inherent uncertainties"</i> <i>"For planning purposes, assuming existing funded capacity and capability, we are estimating growth of 15.6% over the seven year time horizon" (to 2024). The derivation of this forecast is explained in Section 5.7 - bottom of page 25.</i> <i>The FNPO RS is predicated on these constrained forecasts of growth in rail freight.</i> <i>The Summary chapter includes the following statements on the investment required to meet this constrained growth.</i></p> <p>Section 2.3 Route Objectives - Achieving rail freight growth - page 6).</p>	

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	<p><i>“Our planning and scoping work to date indicates that around £2bn will be needed over a 15 year horizon to fund the infrastructure necessary to underpin step changes in rail freight growth”.</i></p> <p><i>In terms of developing capacity and capability FNPO is clear “A proportion will be through the continued drive to optimise use of the existing network. However, on certain routes in order to deliver a step change in growth, enhancements to network infrastructure will be required”.</i></p> <p><i>“In the longer term, the freight capacity and capability requirements necessary to achieve continued freight growth will form a key element of the 15-year Freight Plan with the anticipated focus being on five key strategic corridors:</i></p> <ul style="list-style-type: none"> <i>– Felixstowe to the Midlands/North/Scotland</i> <i>– Solent to the Midlands/North/Scotland</i> <i>– Cross London</i> <i>– Northern Ports and Trans Pennine capacity</i> <i>– Development of additional Nodal Yards (to support train regulation and capacity management)”.</i> <p><i>The opportunities are identified in section 5.8 Rail freight - a framework for growth (FNPO page 26)</i></p> <p><i>“The rail freight strategies of the UK and Scottish Governments, supported by both our traffic forecast for CP6 and wider sector opinion, suggests that there are:</i></p> 	

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	<p>– Immediate opportunities for rail freight volume growth, particularly across the intermodal, construction and automotive sectors</p> <p>– Longer term opportunities in emerging new markets such as retail logistics, express freight and urban logistics.</p> <p><i>“The FNPO considers that rail freight growth levels as envisaged by MDS Transmodal forecasts and desired by the Governments’ rail freight strategies, can be achieved – but only if an appropriate framework is put in place to develop infrastructure capability and capacity, and to fairly charge for access to it”</i></p>	
	<p>ExQ1.0.32</p> <p><i>The significance of the data collected “on the use of rail freight by occupiers in the area” (Appendix A2, paragraph 55) is dubious. Despite the somewhat confusing first sentence, it is clear that the data collected does not actually relate to the specific operation undertaken at the premises within the catchment area, but rather to the whole business operation of businesses who occupy these premises i.e. operations undertaken at other locations. This does not support the assertion that this is a reliable indicator of the potential use of the proposed RFI.</i></p>	<p>Paragraph 55 of the Market Analysis Report (Document 6.8A, REP1-004) makes clear the basis of the data obtained and how it might be ‘an indicator of the current willingness of businesses to use rail freight and an indicator of potential rail freight use at Northampton Gateway’. This point is clarified in the Applicant’s response to this ExQ1.0.32</p>

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<p>Stop Roxhill Northampton Gateway (SRNG)</p> <p>[PINS Ref: REP2-020]</p>	<p>ExQ1.0.6</p> <p><i>The Applicant discusses the benefits to Northampton but makes no mention of the impact of the relocation to the Northampton Gateway site. For instance, the site-generated traffic figures produced for Consultation 2 are unchanged in the Application documents. This is despite the number of existing traffic movements and noise levels being known by the aggregates company, GRS Roadstone. These were not available in Consultation 3. Noise levels during loading and unloading in particular are likely to be significant compared with other activities on site.</i></p>	<p>The incorporation of the aggregates terminal into the scheme took place after the Stage 2 Consultation which included the aggregates terminal. Accordingly a focussed consultation exercise was undertaken to deal with scheme changes post Stage 2 Consultation. At the same time, changes to the scheme were discussed with the Transport Working Group in November of 2017 and the trip generation implications agreed. It was agreed that the addition of the aggregates facility would stay within the envelope already established for the basis of assessment, with the aggregate trains falling within the number of trains already assessed.</p> <p>The Environmental Statement has considered the aggregates terminal explicitly with regard to noise and air quality both in terms of an assessment pre-mitigation and residual effects.</p> <p>Loading and unloading aggregates was explicitly included in the assessment of noise during the operational phase – see paragraph 8.3.57 of Chapter 8 of the Environmental Statement (Document 5.2).</p> <p>Please also see below in response to ExQ1.8.1.</p>

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	<p>ExQ1.0.8</p> <p><i>This response does not reflect their previous statement when these concerns were raised at a Village Meeting. The response was that Roxhill would be prepared to purchase the land between the bypass and the village boundary and gift to the village. If the Application were to be approved, this would be a benefit.</i></p> <p><i>The land between the bypass and the built up areas of the village are an obvious target for development. The fact that SNC has a 10 year land bank may be of little relevance when the Council is amalgamated with Daventry District Council and Northampton Borough Council (NBC) to form a unitary authority in 2020. Currently NBC does not have the required 5 year land bank.</i></p> <p><i>One owner of land adjacent to the inner edge of the bypass route has already intimated he will apply for Planning permission for housing.</i></p> <p><i>Roxhill also discusses the relative merits of the bypass route which is more fully covered in our Written Response, Pt B, 6.12 – 6.15</i></p>	<p>The assertion that an offer was made to purchase land between the proposed Roade Bypass and the village of Roade is incorrect; no such offer was ever made by the Applicant. The Applicant explained that this was not possible.</p>
	<p>ExQ1.0.9</p> <p><i>Saved Policy EV8 is still valid. It is intended to be given the same effect by Policy SS2 (General</i></p>	<p>Please see response to SNC above.</p>

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	<p><i>Development Principles) 1. a) and b), in the emerging Local Plan Pt 2, Policy NE2.</i></p>	
	<p>ExQ1.0.11</p> <p><i>This response does not reflect the promotion of the Gazeley Altitude building alongside the M1 at Milton Keynes which will accommodate up to 5 mezzanine floors in a similar height building (see our Written Response Pt B, 2.9 a). One can only assume that Gazeley promote this as being an attractive proposition in the light of current warehousing trends. If any of Roxhill's units are similarly equipped the impact on traffic could be considerable but this has not been taken into account.</i></p>	<p>Please see response to SNC above.</p> <p>The property referred to was built speculatively and is currently purely a shell. As yet it is not known if it will involve any mezzanines. In the experience of the Applicant, five mezzanine floors would be extremely unusual.</p>
	<p>ExQ1.0.17</p> <p><i>The proposed Roade bypass is not necessarily the only solution for reducing traffic through Roade. A potential alternative, not investigated by the Applicant, is a J14A. There is much concern in the village regarding the overall impact of the proposed development, despite the apparent benefit of a bypass. Should PINS be minded to support the Application, we would welcome a requirement to assess this alternative which is likely to be cheaper.</i></p>	<p>A road link from the south of Roade to the M1 south of Junction 15 would be around 3.6km, and is over 1km longer than the proposed Roade Bypass. It would still require a bridge over the West Coast Main Line so it would clearly be more expensive than the bypass before the costs of a proposed new J14A itself are taken into account. The costs for J14A would be substantial, requiring at least one bridge over or under the M1 and several new gantry structures on the smart motorway. There would have to be a compelling need for Highways England to accept a new junction on the M1 and in the Applicant's view this need is not met since a</p>

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		<p>better alternative exists. Furthermore, constructing this link and a new J14A would not avoid the need for significant improvements at Junction 15.</p> <p>Please also refer to the Applicant's response to Rail Central's Deadline 2 submission (Document 8.8A).</p>
	<p>ExQ1.0.19</p> <p><i>Roxhill's view appears to be that the so-called Golden Triangle is the ideal area for a cluster of SRFI's. This area came about because it is strategically located for road-based distribution. The objective of the NPSNN is clear in requiring an expanded network of SRFIs across the regions, etc. In effect, it sees the future moving away from this locality, as it will otherwise lead to more HGVs on the roads with the resultant impact of increased congestion and air quality issues. DIRFT III, together with DIRFT I and II, will have sufficient capacity for this area when the planned further rail connected warehouses are constructed.</i></p>	<p>Please see response to SNC above.</p> <p>Please also refer to the Applicant's response to Andrew Gough's written representation (REP1-065) (Document 8.7, REP2-10).</p>
	<p>ExQ1.0.22</p> <p><i>The Applicant seems certain that sufficient capacity exists up to Network Rail's Control Period</i></p>	<p>Please see response to SNC above.</p>

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	<p><i>8 (2029 to 2034). This was not confirmed by the Network Rail representative at the Preliminary Meeting on 6th November at the Hilton Hotel.</i></p> <p>ExQ1.7.3</p> <p><i>The building heights are still not clear. The Above Ordinance Datum (AOD) for the main building heights was used for the two Consultations and was impossible to assess in relation to the smaller buildings for which the actual heights were stated.</i></p> <p><i>The continued use of AOD suggests some latitude may be taken in relation to any approved height. If this is not the case then it would be clearer to state the maximum and minimum height of the bunding in relation to the specified building heights, cranes and gantries.</i></p>	<p>The Parameters Plan (Document 2.10, APP-065) states “the parameters established for the landscape bunds is that their height, relative to the buildings they screen, will be in accordance with the principles shown, and established by the landscape cross sections contained in ES Chapter 4”.</p> <p>The approach of imposing parameters by reference to principles established in cross sections follows the approach adopted at East Midlands Gateway. However, in that instance, rather than there being any explicit reference on the parameters plan there was simply a requirement (requirement 8) to accord with a landscape framework plan which included cross sections. It was felt to be clearer and more robust to ensure that the requirement to accord with the cross sections was integral to the parameters and therefore was placed on the face of the Parameters Plan.</p> <p>The maximum heights of all buildings and gantry cranes are therefore restricted by the Parameters Plan, which has never sought to state the specific heights of any buildings. SRNG may be confusing this with the Illustrative Masterplan, which is just that; illustrative, and is provided as only one way in which the development might be built out.</p>

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		As explained in the Applicant's response to ExQ1.7.3 (Document 8.2 , REP1-020 and REP1-021), the Parameters Plan clarifies that the bunding provided will be relative to the eventual building heights. The heights of the bunds therefore do not need to be fixed to a precise datum level.
	<p>ExQ1.7.4</p> <p><i>The Applicant has not responded to this question.</i></p>	The question was not addressed to the Applicant.
	<p>ExQ1.8.1</p> <p><i>It is not clear whether the noise from the aggregates terminal has been included. Information on noise was conspicuous by its absence during the Consultation period therefore there is nothing to compare it with. The fact that the related traffic projections have not been included suggests that the noise predictions may have also been omitted.</i></p>	The prediction and assessment of operational sound from the SRFI included HGVs starting up & pulling away from the aggregates facility and travelling on the internal access roads, as well as the use of an excavator and wheeler loader operating at the facility. Further details are provided in Appendix 8.5 of the Environmental Statement (Document 5.2).
	<p>ExQ1.8.8</p> <p><i>The Applicant concedes that mitigation is required without making, or referring to, any proposals.</i></p>	Proposed mitigation measures are discussed in Section 8.6 of the Environmental Statement (Document 5.2).

Identity and PINS Reference	Other Party Response	Applicant's Response
	<p>ExQ1.8.14</p> <p><i>The Applicant has not answered the question, just changed the wording from 'relatively close proximity' to 'near'.</i></p>	<p>In undertaking the predictions and assessment of construction noise, consideration was given to the type of construction activity, where the associated plant would be operating within the site, and how this related to the location of the relevant receptors.</p> <p>For the activities occurring in proximity to the boundary, the distances between the activity source location and the point on the boundary closest to a relevant receptor are typically between 40 m and 110 m. This is considered to represent a reasonable worst case situation for those activities. It is expected that, for the majority of the time, the construction activities would take place at greater distances from the boundary than assumed in the predictions. Therefore, a robust assessment has been carried out.</p>
	<p>ExQ1.8.16</p> <p><i>It is surprising the Applicant has not conferred with Network Rail to give some reasonable assessment. Milton Malsor in particular will be affected, especially as night-time working is envisaged when background noise levels are low.</i></p>	<p>Requirement 21 of Schedule 2 of the dDCO states that any construction works taking place outside of the permitted hours must be agreed in writing by the relevant planning authority. As explained in the Applicant's response to ExQ1.8.16, it is anticipated that out of hours work will be minimised due to the factors referred to in the response. the variables which prevent detailed knowledge of the precise extent of out of hours activity at this stage are referred to in the response.</p>

Identity and PINS Reference	Other Party Response	Applicant's Response
	<p>ExQ1.8.17</p> <p><i>300m from a receptor seems low, especially if background noise levels are low. No evidence has been produced to support the statement 'these conclusions are based on experience of similar works elsewhere'.</i></p>	<p>The distance of 300 m is stated in the Noise Insulation Regulations 1975 (as amended 1988) and is considered appropriate for the identification of potentially significant adverse effects at this stage.</p>
	<p>ExQ1.8.20</p> <p><i>The Applicant should state whether freight trains complying with the 2011 standards will produce a sufficiently reduced level of noise to make mitigation unnecessary in these particular circumstances. There is also no indication of the life of a rail freight wagon or the current population of wagons complying with the new standard.</i></p>	<p>The performance levels that rolling stock will have to meet in 2043 are not determined yet. What is known is that they will be more stringent than for rolling stock in use today. Therefore, measures are in place to address all the identified potential significant effects.</p> <p>Therefore the marginal adverse effects assessed to arise in 2043 based on existing freight train standards are anticipated to be reduced by the more stringent standards to be applied. The effect of this reduction is to take the potential effect to below significant.</p>
	<p>ExQ1.8.21</p> <p><i>The Applicant states that the government sets no classification of degrees of significance. This is at odds with the statement in the preceding paragraph that there is a threshold set for it being classified as significantly adverse.</i></p>	<p>There appears to be a misunderstanding.</p> <p>An effect is significant or not, and whether it is significant depends on the threshold set. Once that occurs, there is no further classification for how significant the effect is. It is simply significant, and the effect needs to be avoided (in the context of Government policy on sustainable development).</p>

Identity and PINS Reference	Other Party Response	Applicant's Response
		Please see Applicant's response to ExQ1.8.21 for the policy basis.
	<p>ExQ1.8.24</p> <p><i>The Applicant does not answer the second part of the question.</i></p>	<p>This is discussed in paragraph 6.6 of the CEMP:</p> <p>Prior to any construction works commencing on any phase, a construction monitoring protocol would be agreed with the relevant planning authority. This will establish the frequency, duration and location of the noise monitoring to reflect the actual activity envisaged on the site at the time. It will also identify the construction noise thresholds at the appropriate receptor locations (which will reflect the thresholds already identified in the Environmental Statement (Document 5.2)) and the protocol that shall be followed if these thresholds are exceeded or any complaints are received. Such protocol will include the measures to be taken in response to the specific issue arising as referred to in the CEMP. These may range from altering the nature of the equipment used on site or the timing of use of such equipment.</p>
	<p>ExQ1.8.25</p> <p><i>The Applicant's references to parts of a British Standard are merely aspiration and depend on the opinion of the Construction company operatives</i></p>	Any construction contractor will have to comply with the requirements of the CEMP and relevant P-CEMP, and this will include all relevant measures to minimise construction noise and vibration.

Identity and PINS Reference	Other Party Response	Applicant's Response
	<i>(whose hearing may well be impaired by continual exposure to the noise they generate)</i>	
	<p>ExQ1.10.6</p> <p><i>Response (i) refers to £348 billion contribution to the local economy, but response (iv) estimates 25% will be already employed in the local area = c.1900 people. This industry has a high job vacancy rate for warehouse operatives in the Applicant's 25 - mile catchment area. (There were 944 on 20.11.18 at https://www.indeed.co.uk/jobs?q=warehouse+operative&l=Northampton).</i></p> <p><i>The 7500 projected jobs would bring few new opportunities for local residents but more likely disrupt other local employers and draw commuters from outside the locality. No housing has been planned for a development of this size.</i></p> <p><i>Response (iii) refers to the new housing developments but this is planned for the needs of new residents predicted in the approved WNJCS Local Plan which balances housing needs against type of employment. The increase in residents of employment age predicted for the Local Plan period for South Northants is extremely small, accounting for about 20% of the NG projected total employment opportunities and there is no guarantee that many of these will be attracted to</i></p>	<p>This is dealt with in paragraphs 3.3.6 and 3.3.7 of Chapter 3 of the Environmental Statement (Document 5.2) and in the Applicant's response to this ExQ1.</p>

Identity and PINS Reference	Other Party Response	Applicant's Response
	<p><i>NG. This response also makes this claim: Most significantly, NOMIS official labour market statistics show c.2,750 claiming in Northampton and c.2,755 in Milton Keynes. But no reference is made to the bulk (55%) of the job types (warehouse operatives and drivers) for which there is a large deficiency at present. No evidence has been produced of any increase in available suitable employees.</i></p> <p><i>Response (v) suggests the labour market will correct itself, but the current level of vacancies in the industry referred to above suggests this is unlikely.</i></p>	
	<p>ExQ1.11.6</p> <p><i>There are no details in the S106 document as to how either tenant-owned/contracted or, more importantly, non-tenant HGV operators will be monitored. The S106 agreements need to be worded to include the successors to the County and District Councils as they may not exist when some of the S106 provisions are due to be activated. Roxhill should be required to reference an existing system that works.</i></p>	<p>The rationale behind the no right turn is explained in the TA in paragraphs 4.23-25 and 4.38-39. It is not based on a traffic impact justification but was a response, following early consultation, to local concerns regarding HGV movements through the villages. By means of physical measures, HGVs will only be able to turn left out of the site entrance and are therefore forced north on the A508 to Junction 15. HGVs will then be monitored so that any which use junction 15 to return back along the A508 will be identified. This identification will be by either Automatic Number Plate Recognition (ANPR) or an alternative system agreed with the local highway authority, based on more advanced technology, such as GPS. ANPR is tried and</p>

Identity and PINS Reference	Other Party Response	Applicant's Response
		<p>tested – it is the system used for the congestion charge in London.</p> <p>The Section 106 Agreement (Document 6.4A, REP1-003) provides that the details of the scheme must be agreed with the local highway authority, and implemented before any occupation. These details will include the enforcement provisions which will be based on fines to be levied, the level of which will be agreed at the time to ensure that they are penal, reflecting the relevant margins applying to logistics prevalent at the time. Given the nature of Section 106 obligations, the scheme will be enforceable against all occupiers.</p>
	<p>ExQ1.11.13</p> <p><i>The references to EMG are not relevant. It is on a different line, close to the size of urban areas envisaged by the NPSNN (which NG is not) with no competition for freight services (which NG has in DIRFT and others further north on the more congested 2-line section of the WCML). The land costs, compared with industrial land, are extremely low which enables the rail investment, even if not used. Response (iii) is not surprising as it is in the interests of the operator to have the rail option as approval would bring into existence yet another industrial park in the so-called Golden Triangle which is the ideal location for road-based distribution. This is referred to in a number of</i></p>	<p>The Applicant refers to EMG in its response to ExQ1.11.13 to demonstrate that it has taken into account the concerns raised by the EMG ExA in their report to the Secretary of State and to give context to its commitment for Northampton Gateway to deliver the rail terminal before any warehousing may be occupied.</p> <p>The Applicant considers it entirely appropriate to explain its experience of developing EMG in the context of the process for agreeing terms with an operator for the rail terminal.</p>

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	<p><i>areas in the Roxhill reports by reference to being 4 ½ hours from the most densely populated areas in the country – a distance relevant to road transport, but not for rail.</i></p>	
	<p>ExQ1.11.19</p> <p><i>We were unable to locate Appendix 17 referred to attached to this document, or in Chapter 12 or the ES 5.2 Appendices</i></p>	<p>Appendix 17 was included, however it was in two parts on the PINS website due to file size.</p>
	<p>ExQ1.11.27</p> <p><i>Please note that the X4 bus service has been discontinued and the 33/33A is under threat.</i></p>	<p>The Applicant is aware that the X4 bus service has been discontinued. When the public transport strategy was prepared services X4 and X7 had a combined frequency of 30mins. With the removal of the X4 service, the service operator (Stagecoach) has doubled the frequency of the X7 service, so there remains a 30min frequency service.</p> <p>The Applicant is also aware that from January 2019, Stagecoach will be introducing the new X6 service between Northampton, Grange Park and Milton Keynes. At this point the frequency of the X7 service will reduce. The X6 and X7 will combine to provide two buses an hour between Northampton, Grange Park and Milton Keynes. Hence, the changes to these services do not impact the public transport strategy.</p>

Identity and PINS Reference	Other Party Response	Applicant's Response
	<p>ExQ1.11.31</p> <p><i>No allowance appears to have been made for the proposed 12 daily Rapid Rail Freight trains or the 5 daily Aggregate trains.</i></p>	<p>With regard to the 33/33A service, Northamptonshire County Council ended their subsidy in July 2018. However the service continues to operate, and is partly funded by Milton Keynes Council.</p> <p>The Applicant may have misunderstood the ExA's question ExQ1.11.31, which it thought was directed at whether there was any distinction between different chapters of the ES as to the number of trains. The situation is that the 16 trains per day includes any trains being used by the aggregate terminal, but does not include any trains connected with any rapid rail freight operation which may come forward in due course. However, traffic movements connected with all three i.e. the intermodal terminal, the aggregates terminal and the rapid rail freight have been included in the assessment.</p>
<p>Rod Sellers & Stop Roxhill Northampton Gateway</p> <p>[PINS Ref: REP2-018 and REP2-022]</p>	<p>ExQ1.1.3</p> <p><i>The question asks for a response from the Applicant and NBC & SNC to the recent legal challenge to the Government from 'Client Earth'. Roxhill say that Northampton Gateway will comply with all limit values under EU Directives and that any AQ impacts will not delay compliance. In their answer NBC cast doubt on this assertion. In their answer NBC also question the applicants use of the Institute of Air Quality practice of rounding</i></p>	<p>This representation refers to the response of NBC to ExQ1.1.3 (REP1-121). NBC's comments focus on potential issues with the national data set (the emissions toolkit) regarding assumptions or calculations about future emissions. NBC has confirmed in its response to ExQ1.1.3 that "the assessment in the magnitude of changes in air quality in our AQMA uses best available data".</p>

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	<p><i>down impacts of less than 0.5% to zero (and therefore classed as negligible) as this understates baseline data. NBC also state:</i></p> <p><i>The government's AQ plan for NO2 in UK states that Northampton will meet EU Limit values in 2018. However, local monitoring and Environmental Statements show that limit values will be exceeded for years to come. They also say that a key failure of National AQ Planning is the optimistic modelling that has meant unrealistic forecasts for fleet emissions. Buses in Northampton will not be Euro V1 compliant for some years. (This is repeated in answer to EXQ 1.1.28)</i></p> <p><i>SNC have not answered this question.</i></p>	<p>The final assessment used the latest emission factor toolkit data, updated between preparation of the Draft Environmental Statement and the final Environmental Statement.</p> <p>The Applicant has held extensive dialogue with NBC and the ExA will note from paragraph 7.18 of NBC's Local Impact Report (REP1-089) that the Applicant and NBC have an agreed position regarding Air Quality and appropriate mitigation measures.</p>
	<p>ExQ1.1.4</p> <p><i>The question asks why pollutants other than NO2 and PM10 have not been assessed. The applicant says that LA's do not routinely monitor SO2 (sulphur dioxide) and in any case is not applicable to this location. NBC say that the assessment 'could' have included SO2.</i></p>	<p>The Applicant notes that NBC has confirmed (in its response to ExQ1.1.5) that NO₂ and PM₁₀ are the main pollutants of interest – this is consistent with the Applicant's ES Scoping. The approach is therefore appropriately based on these pollutants which dominate the Low Emission Strategy, form the basis for the AQMA, and are the focus of NBC's 'calculator' for air quality mitigation purposes.</p>

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		<p>SO₂ was not proposed for inclusion in the Applicant's ES Scoping, and it was not suggested for inclusion by NBC or SNC (or any other consultee). The Applicant is not aware of any AQMAs in England designated on the basis of concerns over SO₂.</p> <p>NBC does not raise SO₂ as an issue in its Local Impact Report or other written representations, and has not raised it at any stage during the Applicant's extensive dialogue with the Council.</p>
	<p>ExQ1.1.5</p> <p><i>In reply to the question NBC say that the AQ Assessment could/should have looked at levels of PM 2.5 which is a Public Health concern.</i></p>	<p>A response to ExQ1.1.5 was not sought by the ExA from the Applicant.</p> <p>However, PM_{2.5} was not included in the Applicant's ES Scoping, and it was not suggested for inclusion by NBC or SNC (or any other consultee). NBC has not raised it at any stage during the Applicant's extensive dialogue with the Council and the ExA will note from paragraph 7.18 of NBC's Local Impact Report (REP1-089) that the Applicant and NBC have an agreed position regarding Air Quality and appropriate mitigation measures.</p>
	<p>ExQ1.1.19</p> <p><i>This question relates to the applicant disregarding construction traffic in assessing overall emissions. The answer given is that additional construction</i></p>	<p>Construction traffic impacts were assessed on the M1 and A45 (the two nearest AQMAs), and routes expected to see most construction traffic trips (the assessments are</p>

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	<p><i>traffic on key routes would be small. This is unconvincing.</i></p>	<p>contained in Appendix 9.11 of the Environmental Statement (Document 5.2)).</p> <p>On other roads outside these AQMAs, increases in HDV traffic would be required to be greater than 100 trips (500 for LDV) as an average annual daily total to have the potential for impacts. As construction traffic is predicted to be below this level (as set out on pages 38 and 39 of Chapter 12 of the Environmental Statement – Document 5.2, and Appendix 33 of the Transport Assessment – Appendix 12.1), not considering other routes is appropriate and consistent with the agreed methodology.</p> <p>The Applicant would also draw attention to the extensive environmental weight limits that are to be applied as shown on Document series 2.6 (APP-051-054).</p>
	<p>ExQ1.1.23</p> <p><i>This asks why diffusion tube measurements on the A45 AQMA show levels 16% above the EU AQ Standard. The applicant replies that the EU AQS does not apply as the tubes are in a roadside location.</i></p> <p><i>This highlights the need for more detailed assessment in this location and the adequacy of monitoring methods. NBC EHO Officers have acknowledged the need for better tube locations for this AQMA and asked for suggested sites.</i></p>	<p>The comments made by Mr Sellers are critical of the approach NBC takes to monitoring.</p> <p>The diffusion tube monitoring on the A45 is at locations adjacent to the carriageway as the most convenient location for monitoring purposes. These locations are not locations of relevant exposure - the relevant EU AQS exposure locations are at residential properties i.e. where people live and are exposed to long-term concentrations of pollutants. These locations are further from the carriage way and NBC have calculated the concentrations at these</p>

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	<p>ExQ1.1.27</p> <p><i>The question asks if LA's are satisfied that the applicant is correct in its assumptions about overall emissions based on UK AIR data. NBC has replied that it would have preferred for emissions during the construction phase to have been included. SNC has not replied to this question.</i></p>	<p>relevant locations (within the recent Annual Status Report (ASR)) following LAQM guidance (LAQM.TG(16)) and shown exposures to be below the AQS.</p> <p>Please see response in respect of ExQ1.1.19 above.</p>
<p>Blisworth Parish Council [PINS Ref: REP2-017]</p>	<p>ExQ1.0.5</p> <p><i>The Secretary of State's decision to allow no rail connected warehousing was clearly in contravention of the NPS and for that reason the EMG development should not have been allowed. This decision should, therefore, not be used as a justification for lowering the amount of rail-connected warehousing on NG's development.</i></p>	<p>The references both to EMG, and to 'lowering the amount of rail-connected warehousing' at NG are erroneous. There is no requirement in the NPSNN for all warehousing to be directly rail-connected. Indeed the relevant paragraph of the NPSNN (paragraph 4.88) simply states "applications for a proposed SRFI should provide for a number of rail connected <u>or</u> rail accessible buildings for initial take up." (our emphasis).</p> <p>The question from the ExA related to the alternative designs considered for the site, as set out in the Design & Access Statement (Document 6.9, APP-379). As explained in the Applicant's response to ExQ1.0.5, there were operational and technical reasons relating to ground levels and the sensitivity of rail to gradient changes which</p>

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		<p>saw the eastern most plots not directly rail-connected. However, all warehousing on the site will be directly rail-served.</p> <p>EMG was approved by the Secretary of State's having been assessed and considered with regard to the NPSNN – the Secretary of State was clearly content that the EMG proposals did comply with the requirements of the NPSNN. This included explicit conclusions on the matter of rail connected buildings (Paragraphs 18 and 19 of his decision letter), where he concludes that the East Midlands Gateway application was acceptable notwithstanding there are no directly rail connected warehousing. As set out above, and in other responses, at NG approximately 60% of the warehousing will be directly rail-connected. The Secretary of State's decision letter for the East Midlands Gateway Scheme is attached at Appendix 2 for ease of reference.</p>
	<p>ExQ1.0.9</p> <p><i>Policy EV8 remains live, relevant and applicable. The Applicant is not being truthful.</i></p>	<p>Please see response to SNC above.</p>
	<p>ExQ1.0.19</p> <p><i>i) The Applicant's response to market need does not relate to the development of a strategic rail freight network, the primary intention of which is to reduce the secondary road leg of a journey; it</i></p>	<p>i) Please see response to SNC above.</p>

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	<p><i>perpetuates the inefficiencies of a road based distribution network and over-development in the Midlands. No reference is made to Government forecasts for the need for rail served warehousing (which NG alone exceeds) nor restricted (and finite) capacity on the rail network. The Applicant contends that most of their freight would originate in London which is widely accepted as an uneconomic distance for a rail freight journey. Contrary to the Applicant's statement, DIRFT does serve the area and, as the new rail head has not yet been built (nor any rail connected warehousing), will continue to do so for many years. [Were there such a pressing demand for accommodating additional rail freight, as contended, four years would not have passed following consent without any rail connected warehousing or new rail head being built].</i></p> <p><i>ii) The Applicant fails to reference the relevant sections of the NPS where the terms "across the regions" and "at a wide range of locations" suggest other less well served regions should be a priority for SRFI development. NG is neither close to a major conurbation (Northampton is not one) nor close to any industry that would utilise the rail terminal. DIRFT remains more than sufficient.</i></p>	<p>Please also refer to the Applicant's response to Andrew Gough's written representation (REP1-065) (Document 8.7, REP2-10).</p> <p>ii) These paragraphs (2.54 and 2.58 of the NPSNN) are appropriately dealt with in the Application, particularly through the Market Analysis Report (Document 6.8A, REP1-004) and the Planning Statement (Document 6.6, APP-376). It is considered that the Application fully accords with these paragraphs, particularly when they are considered as part of the objectives and requirements of the NPSNN when read as a whole.</p>

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	<p>ExQ1.0.21</p> <p><i>The lack of substantial industry in the identified market radius, the short distance to the ports, the need for full trains to make transits economics and other operational barriers such as inflexibility of rail paths mean that most trains will be returning empty. The freight journey from NG to London Gateway is not economic when it involves an additional leg by road.</i></p>	<p>Please see the Market Analysis Report (Document 6.8A, REP1-004). Please also refer to the Applicant's response to ExQ1.0.33 (Document 8.2, REP1-020 and REP1-021), and particularly the letter from Maritime Transport Limited (Appendix 6 to Document 8.2).</p>
	<p>ExQ1.0.22</p> <p><i>The Applicant has referred to the Freight & National Passenger Operators Route Strategic Plan February 2018 (Appendix 7) to justify the building of an SRFI in Northampton. The document only refers to the building of "terminals" in areas such as Daventry and Northampton, not SRFIs ("2. Domestic & Deep Sea Intermodal Growth: Facilitate new terminal developments at Daventry, Northampton, West Midlands and Parkside"). Section 9 of Appendix B Geographical Route summaries refers to SRFI Terminal Development on the WCML where it states the aims of "Securing of sufficient capacity to support SRFI developments through planning and into use" and "Offer NR support to proposals when adequate strategic fit and capacity". There is no investment planned in the appropriate parts of the</i></p>	<p>The Applicant has not referred to the Network Rail Freight & Passenger Operators Route Strategic Plan 2018 to justify the proposal. The proposal is justified by the NPSNN and explained in the Market Analysis Report (Document 6.8A, REP1-004). Reference was made to the Network Rail document to identify that a new SRFI at Northampton formed part of Network Rail's aspiration.</p>

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	<p><i>network to provide sufficient capacity. None of the rail enhancements detailed in the document have been committed to in the current control period. The statement that no capacity requirements are required to accommodate NG is misleading. This statement is made on the basis of the 4 train minimum requirement. It ignores the aspiration of DIRFT to service a further 20 trains, other proposed SRFIs and the impact on passenger services. Again, NG to London ports is not an economic rail freight journey compared to road and is also constrained by the north London line bottleneck.</i></p>	
	<p>ExQ1.0.28</p> <p><i>Government forecasts are driven by the Great Britain Freight Model which uses rail served warehousing as an input. The figures used in this model are guesses and it is then assumed that if you build warehouses they will necessarily then be serviced by the rail. This is not the case. The demand for rail freight is driven by economics, flexibility, train load dynamics and efficiency of operating models. The two elements are only tenuously connected. The recent fall in the amount of rail freight moved, despite the availability of new rail served warehouse space, is evidence of this disconnect.</i></p>	<p>The reasons for the reduction in growth forecasts is explained in paragraphs 6.6 and 6.7 of the Market Analysis Report (Document 6.8A, REP1-004).</p> <p>Please also refer to the Applicant's response to RR-041 (Document 8.3, REP1-022).</p>

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	<p>ExQ1.7.3</p> <p><i>The Applicant has not answered the question on the height of the bunding.</i></p>	<p>Please see above in response to SRNG.</p>
	<p>ExQ1.7.4</p> <p><i>Why has this question been answered n/a?</i></p>	<p>The question was not addressed to the Applicant.</p>
	<p>ExQ1.8.10</p> <p><i>Is it acceptable for the Applicant to decide that vibration modelling is not required?</i></p>	<p>The Parish Council asks whether it is appropriate for vibration modelling not to be undertaken.</p> <p>The approach taken is consistent with the ES Scoping Report which refers to how potential vibration effects will be assessed, and which does not refer to 'modelling'. The detailed approach, as described in the ES, was also explicitly agreed in dialogue with SNC during the process of preparing the ES. Not having undertaken modelling of vibration does not equate to vibration effects not having been assessed and considered.</p> <p>Various sources of vibration are assessed in the Chapter 8 of the Environmental Statement (Document 5.2) (see paragraphs 8.3.1, 8.3.10 and 8.3.11), including from rail and road traffic. The ES is based on assessments of vibration at relevant receptors, using a robust methodology including surveys of existing vibration.</p>

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	<p>ExQ1.10.1</p> <p><i>The Applicant has referred to an increase of 15,890 people between 2011 and 2029 in South Northamptonshire (paragraph 3.4.6). This is not the increase in the working age population. This figure is very misleading as the more relevant data to consider is the growth of the working age population. This is expected to increase from 54,200 to 55,700 between 2011 and 2029, i.e. an increase of only 1,500[2]. The Applicant's whole socio-economic argument is based on the application of incorrect figures. This error also negates the validity of the transport modelling. This error has been pointed out in a number of representations but continues to be quoted by the Applicant.</i></p>	<p>The Socio-Economic Chapter of the Environmental Statement (Chapter 3, Document 5.2) included information on baseline conditions. This includes details of population, employment, unemployment, income, occupations and other factors. The Applicant considers that given this is baseline information, it cannot be considered to be misleading.</p>
	<p>ExQ1.11.6</p> <p><i>Northamptonshire CC does not operate any traffic cameras so are unlikely to regulate any private camera scheme. If this is a private scheme who will ultimately be enforcing it for the future life of the site? We would suggest that continued enforcement is not feasible nor practical. What recompense will there be for the community if it is discontinued? Who will determine the level of fines and to whom will the fines be paid?</i></p>	<p>Please see above in response to SRNG.</p>

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	<p>ExQ1.11.13</p> <p><i>The rail movements at DIRFT have plateaued and remained static for well over 5 years. The key indicator for future need would be the take-up of rail served warehousing at EMG and more particularly DIRFT. At the latter two non-rail connected warehouses have been built since consent in 2014 and two new units at EMG before the rail connection has been made. There is therefore no relevant reference point to indicate likely take-up. However, the removal of the rail connection at Eurohub Corby and the absence of any rail freight at EMDC since it was opened are indications that the enthusiasm for take-up of rail transport is not reflected in the picture painted by the Applicant. The proposal is (at best) premature.</i></p>	<p>This paragraph refers to Eurohub Corby and EMDC. Neither of these are SRFI but are single-user rail heads. The Corby rail head was constructed many years ago for the sole purpose of car freight and is not suitable for intermodal traffic, being only cleared to gauge W7. The rail head at EMDC has been included wholly within the Marks & Spencer demise and is therefore a single-user rail head. For their own reasons, Marks & Spencer have not yet brought the rail head into operation. The Applicant is not privy to those reasons.</p>
	<p>Appendix 3 Table 1 item 1 d)</p> <p><i>the applicant is required to provide "a description of the reasonable alternatives studied by the applicant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment;". The Applicant has stated that this can be found in ES Chapter 2 – Description of Development and Alternatives. All that can be found is a dismissal of a site at junction</i></p>	<p>Please see paragraphs 2.4.16 – 2.4.18 of Chapter 2 of the Environmental Statement (Document 5.2) which explain clearly the reasons for the conclusion that the site at junction 13 of the M1 is not a reasonable alternative. This includes the challenging and potentially significant issues with the site in relation to visual impact and effect on nearby settlements due, in particular, to the topography of the site.</p>

Identity and PINS Reference	Other Party Response	Applicant's Response
	<p><i>13 of the M1 and a cursory comparison with Rail Central which, strategically, is the same site [Table 2 point 2: the need for alternative sites assessment is iterated here]. Roxhill, in other documents, have stressed the fact that NG located on the southern tip of the Golden Triangle and therefore suited to serve the London market. Surely a site closer to London (Milton Keynes) and a greater distance from DIRFT would reduce road miles further and take traffic away from the MOST congested section of the M1. The Applicant is therefore contradicting themselves when dismissing Junction 13 as a viable alternative.</i></p>	
<p>Andrew Bodman [PINS Ref: REP2-013]</p>	<p>ExQ1.0.9</p> <p><i>The West Northants Joint Core Strategy covers numerous planning policies for Daventry District Council, Northampton Borough Council as well as South Northants Council (SNC). Sitting alongside those policies is the South Northants Council Local Plan Part 2. The saved policies of the SNC Local Plan Part 2 are still in effect and that includes policy EV8. A new SNC Local Plan Part 2 is currently going through its statutory consultation. This has been explained in detail my written representation paragraphs 38 to 40 and 58 to 61.</i></p>	<p>Please see response to SNC above.</p>

Identity and PINS Reference	Other Party Response	Applicant's Response
	<p><i>The emerging policies (Local Plan Part 2) are relevant and are a material consideration. The corresponding new policy will be SS2 (General Development Principles) which states the following:</i></p> <p><i>“1. Planning permission will be granted where the proposed development:</i></p> <p><i>a. maintains the individual identity of towns and villages and does not contribute to any significant reduction of open countryside between settlements or their distinct parts; and</i></p> <p><i>b. does not result in the unacceptable loss of undeveloped land, open spaces and locally important views of particular significance to the form and character of a settlement; and”</i></p> <p><i>The West Northants Joint Core Strategy is also titled as the Local Plan Part 1. Therefore it does not replace the SNC Local Plan Part 2 (current or proposed).</i></p> <p><i>The “Local Gap” may no longer be categorised as such in the emerging Local Plan Part 2, but new policy SS2 listed above is its direct equivalent.</i></p>	
	<p>ExQ1.0.19</p> <p><i>Roxhill's response reflects road based logistics distribution thinking, which is not applicable to rail</i></p>	<p>Please see response to SNC above.</p>

Identity and PINS Reference	Other Party Response	Applicant's Response
	<p><i>based distribution. Please see my written representation paragraph 83.</i></p> <p><i>There is nothing in the NPSNN to suggest that there is a shortage of SRFIs in the Midlands. On the contrary, the suggestion is that they are needed elsewhere. See NPSNN paragraphs 2.57 and 2.58.</i></p> <p><i>DIRFT is the largest SRFI in the country. In Roxhill's Transportation Appendix 7, there is a map (Figure 1) showing HGV distribution at regional level. This is drawn with a 25 mile radius and includes the location of DIRFT. So it is incorrect to say that Northampton is not well-served by DIRFT.</i></p> <p><i>The Midlands is better served by SRFIs than any other part of the country. It would be better to build a new SRFI in the North West or Yorkshire. The projected growth figures for rail freight provided by Roxhill are very optimistic. Domestic intermodal rail freight has been growing at 1.1% per year since 2011/12 (ORR data) as detailed in my written representation paragraph 194.</i></p>	
	<p>ExQ1.1.14</p> <p><i>Whilst Roxhill has created a forecast to show the potential reduction in mileage for commercial</i></p>	<p>The observation here misses the purpose of the SRFI. Logistics will be located in areas such as this due to the</p>

Identity and PINS Reference	Other Party Response	Applicant's Response
	<p><i>vehicles, the developer does not appear to have calculated the additional mileage generated by Northampton Gateway employees travelling to and from work. My written representation indicates this employee mileage will exceed the forecast reduction in commercial vehicle mileage (my paragraphs 259 to 266).</i></p> <p><i>In the context of air quality, Roxhill also does not appear to have considered that approximately half the locomotives hauling trains to Northampton Gateway would not subject to any air quality legislation (for diesel locomotives), due to their age. Please see my written representation paragraphs 287 to 289.</i></p>	<p>locational advantages. Without the rail opportunity then that logistics development will still take place but will be road based only and will still result in employees travelling to and from work.</p>
	<p>ExQ1.9.1</p> <p><i>It is appropriate to point out the Northamptonshire County Council included the following remarks in their response to Rail Central's statutory consultation in April 2018: "The only meaningful cumulative assessment would be obtained from combining the separate impacts which each developer has used for assessing their own sites. NCC was willing to facilitate such an assessment, and where appropriate act as a neutral party to ensure confidentiality of input of information, and has made this offer to both parties, but this approach has not been successful to date".</i></p>	<p>This is briefly explained at paragraphs 1.4 – 1.8 of Appendix 12.2 to Chapter 12 of the Environmental Statement (Document 5.2). It may be instructive for the ExA to understand further background to the efforts to undertake a cumulative impact assessment assessing the transport impacts of Northampton Gateway and committed development along with Rail Central.</p> <p>The need to undertake a cumulative impact assessment was discussed in detail at a meeting of the Northampton Gateway Transport Working Group in September 2016. An outcome of this was that the Applicant wrote to Rail Central</p>

Identity and PINS Reference	Other Party Response	Applicant's Response
	<p><i>It is not necessarily appropriate to solely blame Ashfield Land. It is also my understanding that NCC's offer has still not be taken up. The response made by Roxhill concerning the cumulative impact of Rail Central with Northampton Gateway concerns road traffic. The cumulative effect on rail/trains needs to be considered too.</i></p>	<p>on 6 October 2016 requesting details of the Rail Central scheme and highway mitigation proposals for inclusion in the cumulative impact assessment. No response was received. The cumulative impact assessment with Rail Central remained an agenda item at subsequent Northampton Gateway Transport Working Group meetings. In the absence of any response from Rail Central to the Applicant's request for information regarding their scheme, options were discussed with the Transport Working Group as to how the cumulative impact assessment could be best undertaken.</p> <p>The Applicant suggested that the Transport Working Group, more specifically Northamptonshire County Council, could act as 'ringmasters' of a cumulative impact assessment. At the Transport Working Group meeting held in January 2017, Northamptonshire County Council put forward the potential option to run a single cumulative impact assessment with inputs from both the Northampton Gateway and Rail Central schemes, with outputs provided to both parties. The Applicant confirmed that it would be happy to provide information for such an assessment, with a date of August 2017 identified as a potential suitable time to undertake such work. It is the Applicant's understanding (as reported by Northamptonshire County Council via the Transport Working Group meetings) that Rail Central agreed that Northamptonshire County Council undertake the 'ringmaster' role, but that Rail Central did not commit to a timescale for this work. In September 2017 Rail Central cancelled their Stage 2 Consultation, citing delays with their</p>

Identity and PINS Reference	Other Party Response	Applicant's Response
		<p>transport modelling and no further information was forthcoming regarding the Rail Central scheme. The Transport Working Group also reported that Rail Central had postponed their scheduled meetings with them.</p> <p>Therefore, at the time when the cumulative impact assessment was required to be undertaken for the purposes of submission with the Northampton Gateway Application, the necessary input from Rail Central was not available. This was recognised by the Transport Working Group and, accordingly, the approach to the cumulative assessment which was carried out and submitted with the Northampton Gateway Application was agreed with the Transport Working Group in December 2017.</p>
	<p>ExQ1.11.6</p> <p><i>This suggests the enforcement will only happen regarding drivers of HGVs being employed by occupiers of Northampton Gateway. There will be many HGV drivers accessing this SRFI who are not based at Northampton Gateway.</i></p>	<p>Please see above in response to SNRG.</p>
	<p>ExQ1.11.23</p> <p><i>This is not correct. The traffic modelling has not been run with the developers' own data for Northampton Gateway and Rail Central simultaneously. Northamptonshire County council</i></p>	

Identity and PINS Reference	Other Party Response	Applicant's Response
	<p><i>commented as follows in their written representation:</i></p> <p><i>“3.7 The County Council does, however, remain concerned about the potential cumulative impact should both the Northampton Gateway and Rail Central Strategic Rail Freight Interchange proposals be consented. We do not believe that the two proposals are compatible from a highways perspective</i>”</p> <p><i>The traffic model will also understate employee traffic movements as they will have to travel further distances than Roxhill expects due the lack of locally available workforce.</i></p> <p><i>In addition, the traffic model only takes account of planned developments in Northamptonshire. Planned growth for Milton Keynes, Bedford and other adjacent areas have not been included for traffic modelling purposes. These points were covered in my written representation paragraphs 236 to 245.</i></p> <p><i>Lastly, as Andrew Gough indicated at the Open Floor Hearing on 10th October, the Northampton University campus has been moved to Bedford Road, which is less than one mile from the A45. With 13,000 people travelling to the campus every</i></p>	<p>The NSTM2 is not limited to Northamptonshire (TA Appendix 22, Figures 3.1 and 3.2). Traffic growth for Milton Keynes, Bedford and other adjacent areas are included within the model via TEMPro growth. WSP's Local Model Validation Report (TA Appendix 22) confirms that the NSTM2 conforms with appropriate calibration and validation criteria. This includes the links to and from the surrounding areas.</p> <p>The moving of the Northamptonshire University Campus has been taken into account in the Transport Assessment. This is referred to as 'University Nunn Mills' at Table 7 of WSP's Reference Case Report (Appendix 23 of the</p>

Identity and PINS Reference	Other Party Response	Applicant's Response
	<i>day, this will significantly affect the traffic modelling which has been carried out so far.</i>	Transport Assessment (Appendix 12.1 of the Environmental Statement (Document 5.2)).
	<p>ExQ1.11.25</p> <p><i>There appears to be nothing stopping a HGV driver from departing Northampton Gateway to the north, taking a circuit of M1 junction 15 and then heading south on the A508 towards Roade and Stony Stratford.</i></p>	Please see above in response to SNRG ExQ1.11.6 in respect of the measures proposed.
	<p>ExQ1.11.31</p> <p><i>Referencing Roxhill's Rail Report (Document 6.7) Figure 1, this suggests that no allowance has been made for express freight trains.</i></p>	Please see above in response to SNRG.

Appendix 1

Highways England Email

From: Seldon, Martin <Martin.Seldon@highwaysengland.co.uk>
Sent: 30 November 2016 17:52
To: Stuart Dunhill; Sim-Jones, Rob
Cc: [REDACTED]
Subject: RE: M1J15 Northampton Gateway SRFI - reference case position for M1J15

Stuart

My apologies for the delay in responding to you.

The NGMS scheme contains a number of elements including a limited improvement at M1 J15. However, other NGMS junctions have been identified as early priorities and there is no certainty when M1 J15 will be delivered. The scheme may also be affected by the M1 J13 – J16 Smart Motorway scheme. Given this situation, I consider that the assessment should make no assumption regarding future improvements at M1 J15 other than including the committed M1 J13 – J16 Smart Motorway scheme.

Kind regards

Martin Seldon, Assistant Economic Development Manager
Highways England | The Cube | 199 Wharfside Street | Birmingham | B1 1RN
Tel: +44 (0) 300 4703345 | **Mobile:** + 44 (0) 7787 321 881
Web: <http://www.highways.gov.uk>
GTN: 0300 470 3345

From: Stuart Dunhill [mailto:Stuart.Dunhill@ADCInfrastructure.com]
Sent: 11 November 2016 15:28
To: Seldon, Martin; Sim-Jones, Rob
Cc: [REDACTED]

Subject: M1J15 Northampton Gateway SRFI - reference case position for M1J15

Martin/Rob,

Reviewing the spreadsheet of committed and allocated infrastructure that is included within the NSTM, we note that the NGMS works at M1J15 are included:

N24	NGMS: M1 Junction 15	Ramp metering and junction upgrade as (NGMS)
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These works, as far as I am aware, are shown on page 14 of the attached NGMS Memorandum of Understanding.

Please could you confirm the status of these works, if, how, and when they are expected to be delivered and whether there are any updated layout plans. If committed, I assume that we will need to include for the works within our LinSig reference case modelling of the junction.

Kind regards Attachment removed to save space

Stuart Dunhill BEng(Hons) PhD CEng MICE
Director – ADC Infrastructure Limited

Appendix 2

Secretary of State Decision Letter in relation to East Midlands Gateway



Department for Transport

Eversheds LLP
One Wood Street
London
EC2V 7WS

Martin Woods
Head of the TWA Orders Unit
Department for Transport
Zone 1/14-18
Great Minster House
33 Horseferry Road
London SW1P 4DR

Enquiries: 020 7944 3293

E-mail: transportandworksact@dft.gov.uk

Web Site: www.gov.uk/dft

Our Ref: TWA 8/1/15
Your Ref: HUTTONL/302720-000006
12 January 2016

Dear Sirs,

PLANNING ACT 2008 APPLICATION FOR THE PROPOSED EAST MIDLANDS GATEWAY RAIL FREIGHT INTERCHANGE AND HIGHWAY ORDER

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to the report of the Examining Authority comprising a panel of three members, Paul Hudson, Lorna Walker and Gavin Jones, who conducted an examination into the application made by Roxhill (Kegworth) Limited (“the applicant”) on 29 August 2014 for the East Midlands Gateway Rail Freight Interchange and Highway Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”).
2. The examination of the application began on 12 January 2015 and was completed on 12 July 2015. The examination was conducted on the basis of written evidence submitted to the Examining Authority and by a series of hearings held in Kegworth and Loughborough between 4 February 2015 and 1 July 2015.
3. The Order would grant development consent for a Strategic Rail Freight Interchange (“SRFI”) on land to the immediate north of East Midlands Airport near Castle Donington, Leicestershire. The SRFI would include a new rail line, rail freight terminal, warehousing and an intermodal area. The Order would also grant development consent for improvements to Junctions 24 and 24A of the M1 and to the southbound carriageway of the M1 between those junctions; and a southern bypass of Kegworth to the east of the M1. (The whole project including the highway works is referred to in this letter as “EMGRFI”.) In addition the proposed Order would contain compulsory acquisition powers in relation to land and rights that would be required for the purposes of the project.
4. Enclosed with this letter is a copy of the Examining Authority's report. The proposed development is described in section 2 of the report. The Examining Authority's findings are set out in sections 4 to 7 of the report, and their overall conclusions and recommendations are in section 8 of the report.

Summary of the Examining Authority's recommendations

5. The Examining Authority recommended that development consent should not be granted for the proposed SRFI on the grounds of non-compliance with the National Policy Statement for National Networks ("NPSNN") and that accordingly the Order should not be made.

Summary of Secretary of State's decision

6. **The Secretary of State has decided under section 114 of the 2008 Act to make with modifications an Order granting development consent for the proposals in this application.** This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 23(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

7. Please note that, although this letter refers to the decision of "the Secretary of State", Patrick McLoughlin has not personally been involved in this decision because of his potential interest, since his constituency is near to the EMGRFI site. The decision has in practice been taken by the Minister of State for Transport, Robert Goodwill, but the decision has by law to be made in the name of the Secretary of State.

Secretary of State's consideration

8. The Secretary of State's consideration of the Examining Authority's report is set out in the following paragraphs. Unless otherwise stated, all paragraph references are to the Examining Authority's report ("ER") and references to requirements are to those in Schedule 2 to the Order, as set out in Appendix D to the ER.

Policy justification for the development

9. The Secretary of State notes that, following the designation of the NPSNN on 14 January 2015, he is required by section 104(3) of the 2008 Act to decide this application in accordance with the NPSNN (subject to certain exceptions which are not relevant in this case). He has therefore considered first the Examining Authority's assessment (in section 4.2 of the ER) of the extent to which the EMGRFI project would meet the requirements of the NPSNN.

NPSNN requirements as to the location and scale of SRFIs

10. The Examining Authority referred to paragraph 2.56 of the NPSNN which provides that it is important that SRFIs are located near the business markets that they will serve and are linked to key supply chain routes. They noted in this regard that the site of the proposed SRFI would be adjacent to the M1, in a central location in the Midlands providing access to a large proportion of the national population, and very close to the existing rail freight network providing access to key deep sea ports. For these reasons the Secretary of State agrees with the Examining Authority that the EMGRFI project complies with the locational criteria for SRFIs set out at paragraphs 4.84-87 of the NPSNN and he considers that the locational benefits of the project should carry significant weight (ER 4.2.4-9).

11. The Examining Authority also found that EMGRFI was compliant with the requirements as to scale set out in paragraph 4.89 of the NPSNN. This was on the basis that the SRFI would be capable of handling freight trains of the optimum length (up to 775

metres long); that there were no barriers to constructing both east and west facing connections onto the Castle Donington branch line; that capacity could be made available on the branch line to handle the likely level of freight trains using the SRFI; and that the SRFI would be capable of handling 16 trains per day each way in due course. The Secretary of State accordingly agrees with the Examining Authority that the scale requirements set out in the NPSNN are fully met (ER 4.2.29-32).

Need for the proposed SRFI

12. As regards whether the proposed SRFI is needed, the Government has accepted at paragraph 2.56 of the NPSNN that nationally there is a compelling need for an expanded network of SRFIs. At the local level, the Secretary of State notes the applicant's view in its Planning Statement - which the Examining Authority accepted - that there is a strong market demand for SRFIs in the area of Leicester, Nottingham and Derby and that this is likely to continue to grow in the future. While he considers that it is for the market to determine the viability of particular proposals, he is satisfied that taking into account the applicant's assessment of alternative sites – which the Examining Authority also accepted - the EMGRFI site is in principle a suitable one for serving the area of Leicester, Nottingham and Derby (ER 3.2.20-23, 4.2.33-44).

NPSNN requirements applicable to highways

13. With regard to the highway proposals forming part of the EMGRFI project, the Examining Authority had some doubts as to whether these had been assessed strictly in accordance with the WebTag guidance normally required for such projects by the NPSNN. However, the Secretary of State is satisfied, like the Examining Authority, that taking into account the information provided in the applicant's Transport Assessment and the environmental analysis of the impacts of the highway proposals set out in the Environmental Statement ("ES"), the assessment requirements of the NPSNN have been met (ER 4.2.45-56, 5.18).

NPSNN requirements as to the functionality and design of SRFIs

14. The Secretary of State has considered very carefully the Examining Authority's conclusion that the EMGRFI project would not meet the requirements as to the functionality and design of SRFIs, set out in paragraphs 4.83 and 4.88 of the NPSNN, for the reasons given at ER 4.2.14-28 and 4.2.58-62.

15. The Examining Authority's first concern was that the SRFI would not be able to accommodate rail activities "*from the outset*" (paragraph 4.83 of the NPSNN) or be capable of providing "*for a number of rail connected or rail accessible buildings for initial take up*" (paragraph 4.88 of the NPSNN). The Examining Authority considered that these requirements would not be met because a number of warehousing units would be constructed at the outset of the development programme, but would not be rail accessible until the rail link was constructed, which would take 3 years. This meant that rail activities would not be available at the outset, nor the warehouse buildings rail accessible for initial take up (ER 4.2.14, ER 4.2.22-4.2.24).

16. The Secretary of State does not agree with the Examining Authority that the fact that a proportion of the warehousing would be made available for use in the period of 3 years during which the rail link was being constructed means that the project would fail to meet the functionality requirements of the NPSNN referred to above. He appreciates that the

construction of warehousing and the construction of a new railway will involve different timescales and he considers it entirely reasonable that a commercial undertaking should seek to generate income from the warehousing facilities before the railway becomes operational. The Secretary of State considers that the interpretation of these NPSNN requirements must allow for the realities of constructing and funding major projects such as this. Having regard to the terms of paragraph 4.83 of the NPSNN, he is satisfied that, from the outset, this SRFI is being developed in a form that can (that is, will be able to) accommodate rail activities. He considers further that it is not unreasonable to regard the requirement for rail accessible buildings to be available “for initial take up” as having been effectively met in the circumstances of this project, taking into account the time required for essential earthworks and for subsequent construction of the rail infrastructure, the 30 year period planned for the build-up of rail operations and the limitation on how much warehousing can be occupied before the rail line is operational (see paragraph 24 below).

17. The Examining Authority’s second concern was that the SRFI would not meet the requirement in the last sentence of paragraph 4.88 of the NPSNN, namely that “*it is not essential for all buildings on the site to be rail connected from the outset, but a significant element should be*’. The Examining Authority considered that, because none of the proposed warehousing would be directly rail-connected (according to the applicant’s Works Plan and Illustrative Masterplan), the proposals in the application would fail to meet this requirement, both at the outset and when the development was fully completed (ER 4.2.16-17).

18. The Secretary of State notes that the proposed arrangement at the SRFI is that rail-borne freight would be transported between the terminal and individual warehouses by road-based tractors. He considers that this would, at the least, mean that the warehouses would be “rail accessible” or “rail served”, even if not directly connected in terms of rail sidings being physically located in close proximity to warehousing units. He considers that the proposed form of connection between warehouses and the rail freight terminal is sufficient to satisfy the objective of this part of the NPSNN, namely to facilitate and encourage the transport of freight by rail.

19. The Secretary of State accepts that on a narrow interpretation of paragraph 4.88 of the NPSNN the application proposals would not provide a significant element of directly rail-connected warehousing units. However he considers that, reading paragraph 4.88 with paragraphs 4.83 and 4.85 of NPSNN, the proposed SRFI would be compliant with the policy in the NPSNN as a whole in that from the outset it would be developed in a form that can accommodate both rail and non-rail activities and that the links to the road and rail networks would certainly be adequate. Moreover, in the Secretary of State’s opinion the need for and other benefits of the project recognised by the Examining Authority (at ER 5.1.57) are important and relevant matters, to which regard must also be had (under section 104(2)(d) of the 2008 Act), and which overcome, in any event, the Examining Authority’s concerns that were based on a narrow interpretation of the last sentence of paragraph 4.88 taken in isolation.

20. The Examining Authority’s third concern was that the SRFI would not meet the requirement in paragraph 4.88 of the NPSNN that the proposals should include “*rail infrastructure to allow more extensive rail connection within the site in the longer term*”. The Examining Authority considered that, as there were no proposals within the application to extend the rail connections within the site once the rail freight terminal had been fully completed, this criterion had not been met (ER 4.2.17).

21. The Secretary of State accepts that the application proposals do not provide specifically for future extension of the rail infrastructure beyond that which would be authorised by the Order. He considers, however, that the capacity which the currently proposed rail facilities would provide, without any future extension, is such as to allow a substantial volume of rail freight traffic to and from the site (the equivalent of up to 1800 HGV movements per day). He is satisfied that, if realised, this would make a significant and worthwhile contribution to modal transfer which is a key objective of the NPSNN policies for SRFIs.

22. The Examining Authority's fourth concern was that the SRFI would not meet the requirement of paragraph 4.88 of the NPSNN that "*the initial stages of the development must provide an operational rail network connection and areas for intermodal handling and container storage*". Aside from the issue of whether the timing of the completion of the rail facilities would satisfy the requirement of being provided in the "initial stages of the development" (considered above), the Examining Authority was concerned about the consequences of permitting the occupation of nearly 47% of the proposed total volume of warehousing before the rail connection was operational. The Examining Authority considered that there was a risk that the first phase at least of warehousing could remain essentially a road-based operation (ER 4.18-28).

23. The Secretary of State recognises that on a narrow interpretation of the phrase "the initial stages of development" this part of paragraph 4.88 of the NPSNN would not be satisfied. However, for the reasons given at paragraph 16 above, he considers that the rail network connection, the area for intermodal handling and the container storage would be provided as early as reasonably practicable in the carrying out of this development. He considers further that, as at paragraph 19 above, the application proposals are in compliance with the policy in paragraphs 4.83 to 89 of the NPSNN when considered as a whole.

24. With regard to the risk that a significant part of the development could remain road-based, the Secretary of State considers that the requirement for the rail freight terminal to be operational before the occupation of more than 260,000m² of rail served warehousing gives sufficient assurance that the rail facilities will be delivered as soon as is reasonably practicable in the programme for this development. While he accepts that in a commercial project of this sort there can be no absolute certainty that the rail facilities will be used to their fullest extent, he is reassured that the strong and growing demand for rail freight facilities including SRFIs recognised by the Examining Authority, and as expressed in the NPSNN (paragraph 2.45), means that there are reasonable prospects that as this SRFI is developed it will fulfil its potential for contributing to modal transfer in the freight sector, which is the clear purpose of this application.

25. In drawing together their conclusions on the extent to which the EMGRFI project complied with the NPSNN at ER 4.57-62, the Examining Authority said that they found it difficult to reconcile elements of the application as a SRFI against the functional and design requirements set out in the NPSNN. They therefore concluded that the application did not comply with paragraphs 4.83 and 4.88 of the NPSNN.

26. In contrast, the Secretary of State considers that in a number of respects the Examining Authority has taken too restrictive a view on how the NPSNN requirements for SRFIs should be applied to the particular features of this project. He notes in this regard that paragraph 2.45 of the NPSNN recognises that, given the commercial nature of SRFIs, some degree of flexibility is needed when schemes are being developed to allow the

development to respond to market requirements as they arise. While the Secretary of State accepts that in some limited respects the proposals in this application do not fulfil the letter of the NPSNN – particularly in not providing for future rail extensions and not providing for direct rail connection to individual warehouses – in other respects he considers that the requirements of the NPSNN are satisfied. He considers furthermore that the EMGRFI project displays overall a substantial degree of consistency with the objectives of the NPSNN, having the potential to contribute significantly to modal transfer and to meet the national need for an expanded network of SRFIs. The Secretary of State has therefore concluded that the EMGRFI project is substantially compliant with the NPSNN requirements for SRFIs when they are considered as a whole.

Cumulative impacts with other development proposals

27. The Secretary of State agrees with the Examining Authority that the applicant's assessment of the potential cumulative impacts of the EMGRFI project with other development proposals was appropriate. He agrees also that the planning of the HS2 route is not sufficiently far advanced or certain for in-combination effects to be considered (ER 4.3.1-8, 5.1.9).

Transportation

28. The Secretary of State has considered and agrees with the Examining Authority's findings on the transportation impacts of the EMGRFI project, set out at ER 4.4.1-75 and summarised at ER 5.1.10-16. In particular he agrees that:

- there are no over-riding impediments to the proposed SRFI development as regards the availability of train paths to accommodate the forecast volumes of trains and containers;
- the applicant's Transport Assessment was appropriate and acceptable;
- the package of highway proposals would more than mitigate the impact of the SRFI within the Area of Influence and satisfy the requirements of paragraph 5.213 of the NPSNN;
- the proposed arrangements for encouraging alternatives to car usage and balancing their success with vehicle parking provision on the SRFI site are acceptable and meet the requirements of paragraph 5.208 of the NPSNN;
- the proposed changes to local access and public rights of way are satisfactory;
- construction traffic generated by the EMGRFI project would not have a significant effect on the existing highway network and would be adequately controlled by requirement 11 and Schedules 19 and 20 to the Order; and
- the benefits to the existing Strategic Road Network from the transport improvements proposed as part of the project (summarised at ER 4.4.17) would be substantial and should be accorded significant weight in the decision on this application.

Land use

29. The Secretary of State has considered the Examining Authority's assessment of the impacts of the EMGRFI project on land use at ER 4.5.1-21. He agrees with the Examining Authority that the loss of 91 hectares of grade 2 and 134 hectares of grade 3a agricultural land quality would have a major adverse effect on the availability of the best and most versatile land. He accepts that this would be a significant disbenefit of the project which would conflict with the NPSNN and with saved policies in the Local Plan on the protection of the countryside. However, in assessing the significance of this for the decision on this application, the Secretary of State notes that paragraphs 4.84 and 5.163 of the NPSNN recognise that it may not be possible to develop SRFIs without using countryside; and with regard to paragraph 5.176 of the NPSNN, he agrees with North West Leicestershire District Council that the likely financial contribution of the agricultural land to the local economy would be far outweighed by that generated by the EMGRFI project (ER 4.5.13).

Landscape and visual impacts

30. With regard to the Examining Authority's assessment of the landscape and visual impacts of the project at ER 4.6.1-31, the Secretary of State agrees that although the existing character and appearance of both the SRFI site and the area for Kegworth Bypass would clearly be altered, the wider landscape impacts would not be significantly detrimental. This is because the surrounding area already contains significant elements of built development and because the proposed earthworks and landscaping would screen views of the large warehouse buildings from the surrounding area. The Secretary of State agrees with the Examining Authority that the landscape and visual impacts of the proposed development, including lighting, are acceptable and accord with paragraphs 4.30, 4.35, 5.144-146 and 5.160-161 of NPSNN in relation to design considerations, assessment methodology and mitigation (ER 4.6.29-31, 5.1.18-20).

Historic environment

31. The Secretary of State has considered the likely impacts of the EMGRFI project on the historic environment described at ER 4.7.1-25. He notes that apart from a listed milepost there are no heritage assets within the application site and no significant archaeological remains have been discovered. He notes also the Examining Authority's view that, due to the proposed screening of the SRFI site, the development would not cause substantial harm to the settings of any of the conservation areas or listed buildings in the nearest settlements; and that, subject to compliance with requirements 2 and 13, there would not be significant impacts on any archaeological features. The Secretary of State agrees with the Examining Authority that the impacts of the project on the historic environment are acceptable and that the proposal accords with paragraphs 5.126-127 of the NPSNN (ER 4.7.26-29).

Noise and vibration

32. The Secretary of State has noted the Examining Authority's assessment at ER 4.8.1-16 of the noise and vibration impacts of the project. He agrees with the Examining Authority that the relatively high levels of existing and background noise make it unlikely that there would be any discernible changes as a result of the proposed EMGRFI development as a whole, either during construction or when operational; and that vibration levels during the construction and operation of the development are unlikely to be significant. As regards the highway proposals, the Secretary of State notes that these are likely to result in noise reductions in some areas, particularly as a result of the Kegworth Bypass, and agrees that

this would be an overall benefit of the project. He agrees further that the proposed requirements covering construction and operational noise are appropriate and meet the tests in paragraph 5.196 of the NPSNN (ER 4.8.17-18, 5.1.23-24).

Biodiversity, ecology and nature conservation

33. The Secretary of State has considered the Examining Authority's assessment of the impacts of the EMGRFI project on biodiversity, ecology and nature conservation described at ER 4.9.1-45. He agrees with the Examining Authority that the project would not be likely to give rise to a significant effect on the River Mease Special Area of Conservation or on any other European designated site and that no appropriate assessment is therefore required. He agrees also that the project would not adversely affect the Lockington Marshes SSSI or the Oakley Wood SSSI. More generally, he notes that the habitats at the application site are unremarkable and agrees that the arable fields that would be lost are of limited conservation significance. He notes also that the proposed landscape strategy would include a substantial bund to the north of the SRFI site to be planted with new areas of wildlife grassland, hedgerows and trees.

34. The Secretary of State agrees with the Examining Authority that the impact of the proposed development on biodiversity, ecology and nature conservation would be broadly neutral and generally meets the requirements of paragraphs 5.23-38 of the NPSNN. The exception would be the unavoidable loss of veteran trees, and the loss of calcareous grassland which would be relocated (ER 4.9.43-45, 5.1.25-28). The Secretary of State confirms that in deciding this application he has had regard to the purpose of conserving biodiversity in accordance with section 40(1) of the Natural Environment and Rural Communities Act 2006.

Climate change adaptation and carbon emissions

35. The Secretary of State notes that, although climate change adaptation had not been presented as a specific matter in the applicant's ES, the Examining Authority were satisfied that it had been considered throughout the design of the project and that the requirements of paragraphs 4.36-47 of the NPSNN had been met. He notes also that the design approach for the proposed warehouses should lead to energy efficiency maximisation and a small reduction in CO₂ emissions. With regard to the predicted reduction in carbon emissions as a result of the removal of HGVs from the transport network, the Secretary of State agrees with the Examining Authority that the uncertainty as to the extent of the use of the new rail line is a disbenefit to be weighed in the balance. He nevertheless considers that this is offset by the potential significant benefit of the shift of freight traffic from road to rail that could be achieved if the rail line is used to its full capacity, and by the reduction in air pollution and carbon emissions which the highway improvements would deliver (ER 4.10.1-17, 5.1.29-30). The Secretary of State is satisfied that the EMGRFI project does not conflict with the objectives of paragraphs 5.16-19 of the NPSNN in relation to carbon emissions.

Flood risk

36. The Secretary of State notes that the applicant had carried out a comprehensive review of the possible impact on flooding of the EMGRFI project as a whole, the adequacy of which has been confirmed by the Environment Agency and the local authorities, and he is satisfied that it meets the requirements of paragraphs 5.98-99 of the NPSNN. He agrees with the Examining Authority that the risk of localised flooding in Hemington and Lockington as a direct result of implementing the project would not be worsened, and may be somewhat

alleviated by the flood protection measures. He notes also that the flood plain compensation measures should ensure that no extra flooding is caused by the development and agrees with the Examining Authority that, overall, there would be a benefit from the project in terms of reduced risk from flooding (ER 4.11.1-22, 5.1.31-33).

Water quality and resources

37. The Secretary of State is satisfied that the applicant has carried out a comprehensive assessment of the possible impacts of the project on controlled waters and has proposed suitable mitigation measures. He agrees with the Examining Authority that the proposed development would meet the requirements of paragraphs 5.1.219-231 of the NPSNN and that the impacts on water quality and resources would be broadly neutral (ER 4.12.1-9).

Civil aviation

38. The Secretary of State agrees with the Examining Authority that the effects of the proposed development on civil aviation have been properly assessed in line with paragraph 5.59 of the NPSNN and that the proposed development would not significantly impede or compromise the safe operation of the East Midlands Airport as required by paragraph 5.63 of the NPSNN. He is satisfied also that the protection of the airport would be appropriately secured by requirement 7 and by Schedule 16 to the Order (ER 4.13.1-24, 5.1.35-36).

Socio-economic impacts

39. The Secretary of State agrees with the Examining Authority that the applicant's assessment of job generation during construction and operation is credible. According to this assessment, the development would be likely to have a minor beneficial effect on employment during construction (generating an average of 688 jobs per year) and a major beneficial effect at the regional level during operation (creating 7,272 new jobs). He agrees also with the Examining Authority that the generation of employment would be unlikely to lead to substantial additional housing requirements in the locality; and that the health and well-being impacts of the project would be broadly neutral. The Secretary of State accordingly agrees with the Examining Authority that there would be significant benefits from the proposed development in terms of potential employment creation, and he attaches considerable importance to this factor in coming to a decision on this application (ER 4.14.1-36, 5.1.37-40).

Construction

40. The Secretary of State notes that the applicant's Construction Management Framework Plan sets out the general principles of the systems and controls to be used for minimising the adverse environmental effects of the project; and that a Construction Environmental Management Plan ("CEMP") for each phase of the project, to be approved by the local planning authority, would provide the detailed mitigation, monitoring and enforcement measures for that phase. He agrees with the Examining Authority that these Plans can form an acceptable basis for mitigating the environmental impacts of the project and that requirement 11 as proposed by the Examining Authority would ensure that all matters relating to construction activities would be covered by the CEMPs (ER 4.15.1-15).

Land instability, geology, soils, groundwater, earthworks and contamination

41. The Secretary of State has considered the Examining Authority's assessment of these matters at ER 4.16.1-20. Taking into account the evidence submitted by the applicant, including the ES and the Statement of Common Ground with the local authorities, the Environment Agency and Highways England, he agrees with the Examining Authority that the underlying geology and soils are suitable for the proposed development. He notes also that there is no evidence that the applicant's earthworks calculations and modelling are incorrect, nor that an overall materials balance could not be achieved. He agrees, however, that additional information about the detailed design of the earthworks should be subject to approval by the local planning authority under requirement 12 as recommended by the Examining Authority (ER 4.16.21).

42. The Secretary of State notes that none of the assessment work carried out so far has indicated the presence of any contamination. He is satisfied that requirements 24 and 25 as recommended by the Examining Authority would deal adequately with the issue of any contamination that was encountered during implementation of the project (ER 4.16.22).

43. The Secretary of State agrees with the Examining Authority that the impacts of the project on land instability, geology, soils, groundwater, earthworks and contamination environment are acceptable. He is satisfied also that the applicant's assessment of the predicted impacts of the project complies with the requirements of paragraphs 5.116-117 of the NPSNN (ER 4.16.23).

Air quality

44. The Secretary of State has considered the Examining Authority's assessment of the air quality impacts of the project at ER 4.17.1-15. He agrees that, on the basis of the applicant's assessment modelling, there would not be any significant air quality impacts as a result of either the construction or operational phases of the project. He notes, however, that the CEMP would be an important factor in safeguarding air quality during construction (4.17.16). As regards the operational phase, the Secretary of State agrees that the worsening of air quality at a few locations would not be unacceptable and would be outweighed by the air quality benefits that would arise elsewhere as a result of the project. While he accepts that this is dependent on the modal shift of freight from road to rail taking place as envisaged, as noted at paragraph 24 above, he considers that there are reasonable prospects that the proposed SRFI will in due course realise its potential in this regard (ER 4.17.17).

45. For these reasons, the Secretary of State agrees with the Examining Authority that the applicant's assessment of the air quality impacts of the project comply with paragraphs 5.7-9 of the NPSNN. He is satisfied also that the impacts of the project on air quality are acceptable and comply with the decision-making requirements in paragraphs 5.10-13 of the NPSNN (ER 4.17.18).

Dust and other potential nuisance

46. The Secretary of State agrees with the Examining Authority that appropriate mitigation of dust and other emissions during construction would be secured through the submission to the local planning authority of dust management plans ("DMPs") within the CEMP for each phase of the development in accordance with requirement 11. He is satisfied also that, due to the nature of the construction and operational activities, other potential

nuisances such as odour, steam and insect infestations would not be a significant issue. The Secretary of State has concluded, like the Examining Authority, that dust and other nuisance impacts during either construction or operational phases of the proposed development would be broadly neutral. He agrees further that the applicant's assessment of these matters accords with paragraphs 5.84-86 of the NPSNN, and that the requirement for the preparation of DMPs satisfies paragraphs 5.87-89 of the NPSNN (ER 4.18.1-15).

Waste management

47. The Secretary of State has considered the Examining Authority's assessment of waste management issues during the construction and operational phases of the project at ER 4.19.1-11. He recognises, in particular, that the extent of waste management during the construction phase would depend almost entirely on the accuracy of applicant's earthworks modelling - specifically whether a materials balance could be achieved between the amount of earth cut and the amount used for fill in constructing the SRFI (see paragraph 41 above). Subject to that, and to the inclusion in the Order of additional requirements for dealing with controlled wastes and for the submission of a waste management scheme for all the operators at the site, he agrees with the Examining Authority that the arrangements for waste management are acceptable and that the proposals accord with paragraphs 5.42-44 of the NPSNN (ER 4.19.12-13).

Utilities

48. The Secretary of State agrees with the Examining Authority for the reasons given that there would be no significant impact on existing utilities or difficulties in providing for future demands arising from the proposed development (ER 4.20.1-12).

Overall conclusion on the case for development consent

49. The Examining Authority concluded at ER 5.1.5 and 5.1.52-55 that, in the light of its analysis of the policy justification for the development (considered at paragraphs 9 to 26 above), the application did not meet all the requirements for SRFIs specified in paragraphs 4.83 and 4.88 of the NPSNN; and that, as these went to the heart of the objectives for SRFIs, development consent should be refused. For the reasons given at paragraph 26 above, the Secretary of State does not agree with the Examining Authority's assessment as to the extent or significance of the project's non-compliance with the NPSNN requirements for SRFIs. He considers, specifically, that the extent to which EMGRFI proposals do not comply with the letter of the NPSNN criteria for SRFIs is relatively limited and acceptable. He is satisfied also that the extent of non-compliance does not undermine potential for EMGRFI to contribute significantly to achieving the objectives of NPSNN for modal transfer.

50. Turning to other aspects of the NPSNN, the Secretary of State agrees with the Examining Authority that the EMGRFI project is broadly compliant with the assessment principles and generic impacts set out in the NPSNN, taking into account the conclusions on the matters considered in paragraphs 27 to 48 above. He agrees further that, balancing all the adverse impacts of the development identified in those paragraphs against the need for the proposed SRFI and the significant benefits of the project there is a clear justification in favour of granting development consent for the project (ER 5.1.56-57). With regard to section 104(2)(d) of the 2008 Act, the Secretary of State considers that the need for this project and the transportation, socio-economic and noise benefits which it would bring are important and relevant matters for the purposes of his decision and that they outweigh the

Examining Authority's concerns based on the narrow approach to interpreting the policy requirements of the NPSNN.

51. The Secretary of State has therefore concluded that, having regard to section 104(3) of the 2008 Act, it is in accordance with the NPSNN to give development consent for the EMGRFI project. He is satisfied also that, taking into account his foregoing conclusions, none of the exceptions referred to in section 104(4) to (8) of the 2008 Act apply so as to require him not to decide the application in accordance with the NPSNN.

Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

52. The Secretary of State agrees with the Examining Authority that the environmental information provided by applicant in its ES meets the definition given in regulation 2(1) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 ("the 2009 Regulations") (ER 1.1.8). He confirms for the purposes of regulation 3(2) of the 2009 Regulations that, in coming to the above conclusions, he has taken into consideration all the environmental information in accordance with regulation 3(2) of the 2009 Regulations. For the purposes of regulation 23(2)(d)(iii) of the 2009 Regulations, the Secretary of State considers that the main measures to avoid, reduce and, if possible, offset the major adverse environmental impacts of development are those specified in the requirements.

Compulsory acquisition and related matters

53. The Secretary of State has considered the compulsory acquisition powers sought by the applicant against the tests concerning compulsory acquisition in sections 122 and 123 of the 2008 Act, relevant guidance and the Human Rights Act 1998, and has taken into account the case of the one objection to those powers from Lafarge Tarmac. He agrees, firstly, with the Examining Authority that alternatives to the proposed development have been satisfactorily considered (ER 6.1.38). He notes also that as the applicant already controls a substantial amount of the land required for the development, the compulsory acquisition of freehold land would be limited to 11.5 hectares. The remainder of the compulsory acquisition powers in the Order would be for rights over third party and unknown interests (ER 6.1.40-42). The Secretary of State, therefore, agrees with the Examining Authority that the risk that compensation liabilities could not be met is relatively low. He nevertheless considers that it is appropriate to include a provision in the Order requiring a guarantee to be in place before compulsory acquisition powers are exercised (ER 6.43-45).

54. The Secretary of State is satisfied that, in the light of his conclusion that development consent should be granted for the EMGRFI project, a compelling case in the public interest has been made for the compulsory acquisition of the land and rights that are needed to implement the project. He agrees also with the Examining Authority that all of the interests subject to the powers of compulsory acquisition under the Order are required to carry out the development; and that the tests in section 138 of the 2008 Act in relation to the extinguishment of rights and the removal of apparatus of statutory undertakers are met. The Secretary of State agrees further that the requirements of Article 1 of the First Protocol to, and Articles 6 and 8 of, the European Convention on Human Rights have been met. (ER 6.1.46-60).

55. The Secretary of State has accordingly concluded that the compulsory acquisition and other powers over land included in the Order as recommended by the Examining Authority are appropriate and justified (ER 6.1.63-64).

The Draft Development Consent Order

56. The Secretary of State has considered the Examining Authority's description of the evolution of the Order and their comments on the content of the Order in section 7 of the ER. Having concluded above that development consent should be granted for the EMGRFI project, he is satisfied that the form of the Order recommended by the Examining Authority at ER 7.1.46 is appropriate, subject to the modifications referred to below. In reaching this decision he has taken into account the development consent obligations completed by the applicant for the benefit of Nottinghamshire County Council, North West Leicestershire District Council and Leicestershire County Council.

57. The modifications which the Secretary of State has decided to make to the Order are as follows:

- in article 8 (application and modification of legislative provisions), to delete paragraph (3) because he does not consider that it is appropriate for the Order (as secondary legislation) to alter the provisions in the 2008 Act (as enacted by Parliament) which specify that the Secretary of State is "the appropriate authority" for agreeing to modify or discharge development consent obligations;
- to modify paragraph (1) of article 24 (guarantees in respect of payment of compensation) to provide that the approval of guarantees or other form of security should be given by the local planning authority, rather than the Secretary of State; the Secretary of State considers that it would be more appropriate for the local planning authority to perform this function as it is the body mainly responsible for approving such detailed matters under the requirements;
- in Schedule 2, requirement 5, to correct the drafting error relating to the triggers for the provision of highway improvements, as explained in the letter of 14 October 2015 from the applicant's legal adviser, Eversheds LLP;
- in Schedule 2, requirements 11(2), 12, 13(3) and 24, to delete wording which would appear to allow the local planning or highway authority to dispense with compliance with the requirements in question; the Secretary of State considers that article 42(2) (governance of requirements and protection of interests relating to highway works) provides appropriately for the amendment of details, plans or other matters that have previously been approved by the relevant authority under those requirements;
- to amend Schedule 21 as a consequence of the change of the name of Lafarge Aggregates Limited to Tarmac Aggregates Limited, as requested in the letter of 27 August 2015 from their legal adviser, Nabarro LLP; and
- to make a number of further drafting changes in the interests of clarity, consistency and precision; the Secretary of State considers that none of these changes substantively alter the effect of the Order.

Representations since the close of the examination

58. In addition to the correspondence referred to in paragraph 57 above, the Secretary of State received further representations from Lockington cum Hemington Parish Council on 17 November 2015 and from Castle Donington Parish Council on 7 December 2015 referring

to geological testing being carried out by the applicant on the site of the proposed development. He does not, however, consider that anything in the correspondence constitutes new evidence, or raises a new issue, which needs to be referred to interested parties before he proceeds to a decision on this application. They do not cause him to take a different view on the matters before him than he would otherwise have taken based on the Examining Authority's report.

Secretary of State's overall conclusions and decision

59. For all the reasons given in this letter, the Secretary of State is satisfied that it is appropriate to grant development consent for the EMGRFI project and to give the powers required by the applicant to implement the project. He confirms that, in reaching his decision on this application he has, as required by section 104(2) of the 2008 Act, had regard to the NPSNN, to the local impact reports submitted by Leicestershire County Council, the North West Leicestershire District Council and Derbyshire County Council, and to all other matters which he considers important and relevant to his decision. The Secretary of State has accordingly decided to make the Order in the form recommended by the Examining Authority, subject to the modifications referred to at paragraph 57 above.

Challenge to decision

60. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

61. The Secretary of State's decision on this application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Yours faithfully,

Martin Woods

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 is being published on the Planning Inspectorate website at the following address:

<http://infrastructure.planninginspectorate.gov.uk/projects/east-midlands/east-midlands-gateway-rail-freight-interchange/>.

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).