

The Northampton Gateway Rail Freight Interchange

Northampton Borough Council – Responses to EXQ2

ExQ2	Question to	Question	Northampton Borough Council’s Response
2.0	General and Cross-topic Questions		
2.0.1.	Applicant and any other Interested Parties	As the date for Britain’s (probable) departure from the European Union draws near(Brexit), the ExA would welcome views on its possible impact in terms of the Proposed Development with regards the scheme’s underlying economic/commercial justification, ports and domestic intermodal movement of goods, employment levels and funding implications.	No comment.
2.1	Air Quality and Emissions		
2.1.9.	The Applicant, South Northamptonshire Council (SNC), Northampton Borough Council (NBC)	<p>Para 9.5.35, referring to dust emissions associated with the Road Bypass says: “In the absence of any mitigation, including Construction Environmental Management Plan (CEMP) measures, Demolition, Earthworks and Construction are considered to present a Medium Risk of dust soiling effects, whilst, Trackout is considered to present a High Risk of dust soiling effects”.</p> <p>(i) What is the mitigation to address this? And how is it secured? The</p>	Requirement 12 is envisaged as the principal key mechanism to controlling and enforcing potential air quality issues via the CEMP. Alternatively, enforcement action could be considered under statutory nuisance provisions by either NBC or SNC, under the Environmental Protection Act 1990 – Sec 80. If either Local Authority considers their residents are being affected by dust emissions from the development site and independently verified by authorised officers as being unreasonably and substantially interfering with the use or enjoyment of a home or other premises OR injure health or be likely to injure health an Abatement Notice can be served.

		<p>CEMP is specified as but one of the tools.</p> <p>(ii) The Applicant is also referred to the ExA's questions below on paras 9.6.1 to 9.6.4. How can the ExA and the SoS know that the appropriate and adequate mitigation will be put in place and how do the RPAs judge whether what is proposed in due course is appropriate and adequate?</p> <p>(iii) The Construction mitigation section - paras 9.6.1 –9.6.4 -refers at para 9.6.3 to dust mitigation for the Main Site but not for the Roade Bypass. Please can the Applicant comment on what is to be put in place for the Roade Bypass.</p> <p>(iv) The ExA assumes in view of paras 9.5.36 to 9.5.38 that nothing is required for the other Highways Mitigation Measures. Please could the Applicant, SNC and NBC confirm this?</p>	
<p>2.1.13.</p>	<p>SNC, NBC</p>	<p>At para 9.5.101 the Applicant concludes: "Considering the above, the Proposed Development is expected to have an overall Negligible impact on AQMA No.2, No.6 and No.8, in both 2021, 2031 and in the interim years." Please could the Applicant comment on the fact that there will be an increase in the level of failure</p>	<p>The development air quality assessment shows a marginal increase in NO₂ concentrations (0.1ugm³) in AQMA 6 at receptor CS1. Levels are predicted to increase from 47.1 to 47.2ugm³.</p> <p>Similarly, a marginal increase of 0.1ugm³ is predicted at receptor SJ9 in AQMA 3 from 40.1 to 40.2ugm³.</p>

		<p>to comply in AQMA 6—see the results at CS2 set out in Table 9.21? This question is put particularly in the light of para 5.13, second bullet, of the NNNPS and Article 4(3) of the Treaty on European Union which includes the obligation that Member States shall “refrain from any measure which could jeopardise the attainment of the Union’s objectives”. This is also discussed in the opinion of Robert McCracken QC at https://cleanair.london/app/uploads/CAL-322-Robert-McCracken-QC-opinion-for-CAL_Air-Quality-Directive-and-Planning_Signed-061015.pdf and the ExA would appreciate submissions from the Applicant and two district planning authorities on the position in this Application in the light of Article 4(3) and that opinion.</p>	<p>However, the assessment also indicates that concentration of NO₂ at receptors SJ2 and SJ4 in AQMA 3 are likely to reduce by 1ugm³ at each of these locations with the scheme (44.9 to 43.9ugm³ and 46.3 to 45.3ugm³ respectively). The improvement at SJ4 is described as substantial.</p> <p>All developments with associated vehicle movements or heating emissions cause an increase on NO₂ levels, some at above Air Quality Objective levels. Should we refuse each scheme that falls into this category then we would sterilise development in the Borough. We take all developments at their merit and, in line with the National Planning Practice Guidance, we seek off-set mitigation where a site cannot be made acceptable through the use of on-site conditions. Where this cannot be achieved, refusal would be considered.</p> <p>However, the impact of the Northampton Gateway Scheme, while having a marginal impact on NO₂ levels in AQMA 6, is predicted to bring about a substantial improvement in concentrations in AQMA 3. The overall impact of the proposed development on air quality is negligible.</p>
<p>2.1.23.</p>	<p>Northampton County Council (NCC), SNC, NBC</p>	<p>Para 9.6.6 – are NCC, SNC and NBC satisfied that the objectives, targets and indicators of the Framework Travel Plan(FTP)-Environmental Statement Appendix 12.1 TA Appendix 1 Framework Travel Plan(Doc 5.2 [APP-232])-will be achieved? How do they envisage attaining them will be enforced? Please would they explain</p>	<p>As travel planning is a function of the Highway Authority NBC have not looked in detail at the Travel Framework Plan and feel as such NCC will be best placed to provide more robust detailed and constructive answers.</p>

		<p>what mechanisms and sanctions they would expect to use and against whom? The FTP forms an identified mitigation in the Air Quality Chapter (para 9.6.6). It would be helpful to have worked examples. The Applicant may also wish to provide one or more worked examples.</p> <p>The ExA suggests at least the following scenario, taking Table 3 of the FTP:-</p> <p>1 Car sharing (Objective 2). By 2031 only 6% of employee trips are made by car sharing. (The indicator and target are 12%) All employers on site have fully complied with the objective of encouraging car sharing. In the case of employer A, the biggest employer on site only 3% of the employee trips are car shares. In the case of employer B who has only 20 employees, 20% are car shares. In the case of employer C, 12% are car shares. Against whom can NCC, SNC and NBC enforce, and what will the sanctions be? How is achievement of the target and indicator delivered?</p>	
2.1.24.	NCC, SNC, NBC	(i) Para 9.6.6 –are NCC, SNC and NBC satisfied that the Overarching Aim of the Public Transport Strategy –Doc 5.2 [APP-233]-Environmental Statement Appendix 12.1 TA Appendix 2 Public Transport Strategy (PTS) -(see para 7.1	Refer to answer to 2.1.23

		<p>thereof) and the main target (see para 7.5) will be achieved?</p> <p>(ii) How do they envisage attaining the Overarching Aim and the main target will be enforced? Please would they explain what mechanisms and sanctions they would expect to use and against whom? The PTS forms identified mitigation in the Air Quality Chapter (para 9.6.6). It would be helpful to have worked examples. As with ExQ 2.1.24, the Applicant may also wish to provide one or more worked examples.</p> <p>(iii) Is the aim sufficiently precise so that a breach can be identified?</p> <p>(iv) The main target is that “10% of staff working at the NGSRFI should use the bus as their primary mode of transport to and from the site, within 5 years of the site being fully open”. What is the meaning of “fully open”? Could the developer avoid the obligation to achieve the target by not “fully opening”?</p> <p>(v) As with the FTP, against whom is the PTS enforced if the 10% target is not met where, say, 20% of the workforce of one employer use the bus, only 5% of the workforce or</p>	
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		<p>another employer do so and other employers are at or above the 10% figure?</p> <p>(vi) Some new construction –such as bus lay-bys –is required by the PTS. Are those part of the “authorised development” describes in the dDCO? Does the Applicant control the land needed? If the answer to either question is not “Yes”, how will that construction be delivered? If the answer is “Yes” please will the Applicant indicate which parts of the authorised development they form and the land control position?</p>	
2.1.25.	NCC, SNC, NBC	Both the FTP and the PTS use the term “employee”. Given that large parts of the general workforce are often engaged as self-employed (independent contractors), how is it intended to ensure that such persons are included in the objectives, targets, aims, indicators and generally the ambit of the FTP and PTS?	Refer to answer to 2.1.23
2.1.26.	NBC	Para 9.6.10 states: "The potential to reduce the significance of adverse impacts in AQMA No.4 have been discussed with Northampton Borough Council, and the detail is being explored further. Measures being considered include supporting the introduction of cleaner Euro VI class buses for the dedicated SRFI express bus service. The	NBC and the applicant held discussions regarding the Sec 106 Agreement including a contribution to air quality measures to be developed through NBC’s Low Emissions Strategy (LES). A sum of £250,000 has been agreed, and is likely to focus on measures to address potential cumulative impacts of the development on AQMA No4 which are shown to be at worst <i>Slight Adverse</i> , in the interim period only

		<p>applicant has also indicated a willingness to make a contribution to enable delivery of new electric vehicle charging points or other low emission initiatives for Northampton in support of the Council's Low Emissions Strategy." Please will the Applicant and NBC state what is the result of those discussions and, if not concluded, when it is expected that they will be finished and when and how the results will be reported to the Examination?</p>	<p>This figure has been derived using a pollutant emissions costs calculation required by NBC in considering the appropriate scale and kind of mitigation required for major schemes.</p> <p>The calculation utilises the most recent DEFRA Emissions Factor Toolkit¹ to estimate the additional pollutant emissions from a proposed development and the latest DEFRA IGCB Air Quality Damage Costs for the specific pollutant of interest, to calculate the resultant damage cost². The calculation process includes:</p> <ul style="list-style-type: none"> • Identifying the additional trip rates generated by the proposal (from the Transport Assessment); • The emissions calculated for the pollutants of concern (NO_x and PM₁₀) [from the Emissions Factor Toolkit]; • The air quality damage costs calculation for the specific pollutant emissions (from DEFRA IGCB); • The result is totalled for a five-year period to enable mitigation implementation. <p>The calculation is summarised below:</p> <div data-bbox="1272 970 2033 1082" style="border: 1px solid black; padding: 5px;"> <p>Road Transport Emission Increase = Σ[Estimated trip rate for 5 years X Emission rate per 10 km per vehicle type X Damage Costs]</p> </div> <p>The S 106 agreement has been worded in such a way that is flexible in its scope, in order that any of the key air quality improvement measures packaged within NBC's Low Emission Strategy could be delivered. These are listed below:</p>
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			<ul style="list-style-type: none"> - A clean Air Zone Feasibility Study. - Implementing the Northampton Electric Vehicle Plan - Provision of Cycling Hubs; and - Development of Ultra-Low Emission Hubs Corridors. <p>As the applicant will own no land within NBC, agreement has been met to pay the S 106 air quality contribution in a phased approach to NCC and then will be administered to NBC (or future administrative form of governance) via a unilateral undertaking.</p> <p>It is noted that the applicant submitted the agreed wording of the Sec 106 agreement on the 11th February (Document 6.4B).</p>
2.1.27.	SNC, NBC	<p>In relation to AQMA 4, it is stated at para 9.6.11 that it is "considered that proposed mitigation strategies should focus on non-HGV measures. As such the mitigation strategy focuses on encouraging and enabling modal shift toward adopting vehicles with cleaner engines and providing more frequent bus services to support reduced emissions within the AQMAs". Please will the Applicant explain how it is considered this is an important and relevant matter and meets the policy tests if, as the para states at its opening, the HGV traffic from the proposed SRFI is only a small fraction? This question is also addressed to SNC and NBC. It is unclear whether</p>	<p>The national fleet compositions used in the air quality assessment and the Government's Stream Line Pollution Climate Mapping model (SL-PCM v3.2) show that it is assumed that 73% of buses in the study area will be Euro VI Emission Standard in 2021 and that rigid and articulated HGVs will be 83% and 94% Euro VI compliant respectively.</p> <p>NBC have sought and received a commitment from the applicant via agreeing the wording of Requirement 4, that as part of the mitigation/ public transport strategy the undertaker must use reasonable endeavours to maximise the use of Euro VI compliant HGV and public transport vehicles in respect of:</p> <p>(a) any HGV fleets operated by occupiers of the warehouses vehicles which visit the warehouse are; and</p>

		<p>the mitigation strategy is referring to modal shift in buses or HGVs. Please will the Applicant clarify this and also specify what is being referred to by the phrase “mitigation strategy” –is it the “public transport strategy”?</p>	<p>(b) any public transport service provided pursuant to the public transport strategy and dedicated to serving the authorised development.</p> <p>NBC believes that this will provide mitigation against any impacts seen in AQMA 4. NCC therefore confirms it is content with Requirement 4(4) of the draft DCO submitted for Deadline 4 (Document 3.1C).</p>
2.1.32.	SNC, NBC, NCC	<p>Monitoring –this is a general question which applies across the ES. In its reply to ExQ1.0.18 about monitoring and the requirements of the Infrastructure Planning (EIA) Regulations 2017 the Applicant wrote: “The Applicant proposes to update the Commitments Tracker (Document 6.11, APP-381) to include monitoring arrangements. It is proposed to submit this for Deadline 3”. There are references to monitoring in the updated Tracker (Doc6.11A[REP3-003]) but it is not clear what steps should be taken if monitoring indicates that the results are worse than expected or permitted. The second part of question ExQ1.1.34 is reiterated; could the Applicant explain the extent to which monitoring measures are required to demonstrate the efficacy of the mitigation measures proposed and how such monitoring measures would be secured?</p> <p>(i) Please will the Applicant, SNC, NBC and NCC</p>	<p>Requirements will ensure that the Applicant has to agree with SNC, NBC & NCC the scope of any detail for controlling and mitigating against potential construction effects identified via the EIA.</p>

		<p>comment on what should be included, if anything, in the DCO, if made?</p> <p>(ii) Given the relative newness of the need to consider monitoring and remediation, please will those parties set out their understanding of the approach the SoS should take, and criteria, in deciding whether to require either or both monitoring or remediation?</p>	
2.1.34.	SNC, NBC	<p>Judgment was handed down on 25 January 2019 in the case of R. (oao Shirley) v. Secretary of State for Housing, Communities and Local Government [2019] EWCA Civ 22 concerning the SoS's duty to give effect to the objectives of the Air Quality Directive. On 14 January 2019 the Government published the "Clean Air Strategy 2019". On 5 October 2018 the Government published a Supplement to the UK plan for tackling roadside nitrogen dioxide concentrations. Please will the Applicant, SNC and NBC comment on the effect of these developments on the application and its consideration by the ExA and the SoS? Other parties who wish to may also of course make submissions.</p>	<p>The publication of the Governments Clean Air Strategy (CAS) doesn't have any material impact on the consideration of the air quality effects arising from the scheme. The focus of the CAS is to address fine particulate concentrations to improve public health outcomes. The CAS does not include any targets that are relevant to the consideration of the development application.</p> <p>The October 2018 update of the Government's <i>UK plan for tackling roadside nitrogen dioxide concentrations</i> follows a further judgement in the court cases taken by Client Earth. Some authorities in Table K of the plan are now required to undertake Clean Air Zone (CAZ) feasibility studies and produce air quality plans to improve air quality (NO₂) in the shortest possible time.</p> <p>While Northampton was in Table K, the Government has said that Northampton does not have a persistent air quality problem and does not require a CAZ feasibility</p>

			assessment as it is expected to meet the Air Quality Objective / EU Limit Value within the required EU compliance timeframes.
2.4	Draft Development Consent Order (DCO)		
		<p>The Agenda for ISH3 (EV-009) included a schedule of questions in relation to the draft DCO. The Applicant responded to those questions in writing prior to ISH3 and its response document has since then been incorporated by the Applicant at Appendix 13 to its post-hearing submissions on ISH3 (Doc 8.10 [REP4-011]).</p> <p>A number of those questions were addressed to persons other than the Applicant. To be quite clear, the answers from those other persons are required on or before Deadline 5 (26 February 2019). Without setting the questions out again in full, and so as to ensure that they have the same status as Second Written Questions, they are incorporated into these Second Written Questions by reference.</p> <p>The Examination timetable provides that matters raised orally in response to that schedule were to be submitted in writing by Deadline 4 (8 January 2019). Comments on any matters set out in those submissions are to be provided by</p>	

		<p>Deadline 5 (26 February 2019) which is the same as the deadline for responses to these Second Written questions.</p> <p>IPs who participated in ISH3 and consider that their issues have already been drawn to the ExA's attention do not need to reiterate their issues. IPs are requested to review the Deadline 4 written submissions arising from ISH3. Matters set out in Deadline 4 written submissions arising from ISH3 are best responded to in Deadline 5 comments.</p> <p>Further questions on the dDCO are set out in the Commentary and Schedule of Questions document issued simultaneously with these Second Written Questions.</p>	
ISH 3 Questions			
2.	RPAs, NCC	<p>Authorised development Arts 2 & 3</p> <p>S.26 PA 2008 defines a strategic rail freight interchange and states that it must be capable of receiving at least four goods trains per day. Is this an ongoing requirement which applies throughout the life of an SRFI and if so, should it be secured by a formal requirement in Sch 2?</p>	<p>It is considered that this should be an ongoing requirement throughout the life of the SFRI, and should be secured by a formal requirement to enable the relevant local planning authority to consider any deviation from this requirement.</p>
28.	SNDC, NBC & NCC	<p>Please will the relevant planning authorities and the County comment on</p>	<p>NBC is not intending to be a direct party to the S106.</p>

		<p>the fact that some parts of the main site are not to be bound by the s106 agreement? Please will those of them who are to be parties to the s106 agreement (currently SNDC and NCC) please confirm that they are satisfied, after proper consideration, that the development cannot be constructed, occupied or used by any person without compliance with the obligations entered into by the First Owners, the Second Owner and the Developer in the s106 agreement? Should any other parts of the land over which the proposed development is to be carried out (whether on or off the Main Site) be bound by the s106 agreement and if so, why?</p>	
<p>2.9.13</p>	<p>The Applicant and any other IPs</p>	<p>Reference has been made to an editorial in the January 2019 edition of The Railway Magazine (see for example post-hearing submissions of Lyn Bird [REP4-025]). In this it is suggested that there is genuine concern whether rail will actually benefit (from various proposed SRFIs within the Midland) as there are neither guarantees nor incentives to do so. Also, that it's likely within a few years these terminals will end up being road-served because it's cheaper, convenient and more flexible, completely ignoring the green credentials rail can offer.</p> <p>Please comment on the above.</p>	<p>No comment</p>

2.15	Construction Environmental Management Plan (CEMP)		
2.15.2	Applicant, SNC and NBC	<p>The CEMP is not always wholly consistent with the Requirements and has to potential in places to arrive at different mitigation (see for example hours of work). This is almost inevitable with two documents. Please will the Applicant, SNC and NBC give consideration and comment on the appropriateness of including a statement, prominently at the beginning of the CEMP that (1) where there is a conflict between the CEMP and the Requirements, the Requirements are to prevail and (2) that the governing documents are the DCO with its Requirements?</p>	<p>NBC agree that a statement at the beginning of the Construction Environmental Management Plan (CEMP) should outline that if there is conflict between the CEMP and Requirements, the Requirements take precedent and governing documents are the DCO with its associated requirements.</p> <p>In ensuring the above, there is no ambiguity of any areas of conflict and both the developer and regulators have clear guidelines if such matters arise.</p>