



Department
for Transport

Ros Wall
DIRECTOR
ROAD SAFETY STANDARDS AND SERVICES
DEPARTMENT FOR TRANSPORT
GREAT MINSTER HOUSE
33 HORSEFERRY ROAD
LONDON
SW1P 4DR

transportandworksact@dft.gov.uk

Web Site: www.gov.uk/dft

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Dear Sirs,

**PLANNING ACT 2008
APPLICATION FOR THE PROPOSED NORTHAMPTON GATEWAY RAIL
FREIGHT INTERCHANGE 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 dated 9 July 2019 of the Examining Authority, a panel of three examining inspectors consisting of Philip James Asquith, David Brock and Helen Cassini (“the Panel”) who conducted an examination into the application made by your clients, Roxhill (Junction 15) Limited (“the Applicant”) for the Northampton Gateway Rail Freight Interchange Order (“the DCO”) under section 37 of the Planning Act 2008 (“the 2008 Act”);
 - the post examination correspondence that was provided to the Secretary of State with the report on 9 July 2019; and
 - the responses to the further consultation undertaken by the Secretary of State in respect of the application.
2. The application was accepted for examination on 15 June 2018 and the examination was completed on 9 April 2019. The examination was conducted on the basis of written and oral submissions submitted to the Panel and by a series of meetings held in Northampton. The Panel also undertook one accompanied and one unaccompanied site inspection.
3. The DCO as applied for would grant development consent for the construction, operation and maintenance of a new Strategic Rail Freight Interchange (“SRFI”) and associated infrastructure (“the Proposed Development”) adjacent to Junction 15 of the M1 in Northamptonshire. The Proposed Development would include an intermodal freight terminal including containers storage and Heavy Goods Vehicle (“HGV”) parking, rail sidings to serve individual warehouses, and the

provision of an aggregates' facility as part of the intermodal freight terminal with the capacity to also provide a rapid rail freight facility. The DCO would also grant development consent for new road infrastructure and works to the existing road network. In addition, the DCO would contain compulsory acquisition powers in relation to land and rights that would be required for the purposes of the Proposed Development.

4. The total area covered by the Proposed Development site is 290 hectares, with the main site area upon which the SRFI is to be located ("Main Site") comprising 219 hectares.
5. Published alongside this letter on the Planning Inspectorate's website is a copy of the Panel's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the Panel's Report"). The main features of the proposal and the site are set out in Chapter 2 of the Panel's Report, the Panel's findings and conclusions are set out in Chapters 5 to 10, and the Panel's overall conclusions and recommendation are in Chapter 12.

Summary of the Panel's Report and Recommendation

6. The principal issues considered during the examination on which the Panel has reached conclusions on the case for development consent are set out in the Panel's Report under the following broad headings:
 - Legal and Policy Context (Chapter 3);
 - Findings and Conclusions in relation to transport issues; which include policy considerations; highway transport aspects; rail aspects (Chapter 5);
 - Air Quality (Chapter 6);
 - Findings and Conclusions in relation to other planning issues, which includes socio-economics; landscape and visual impacts; noise and vibration; biodiversity, ecology and the natural environment; historic environment; agricultural land; lighting; waste management; water environment; geology, soils and groundwater (Chapter 7);
 - Finding and conclusions in relation to Habitats Regulations Assessment (Chapter 8);
 - Conclusion on the case for Development Consent (Chapter 9);
 - Compulsory Acquisition and Related Matters (Chapter 10);
 - Draft Development Consent Order and Related Matters (Chapter 11).
7. For the reasons set out in the Summary of Findings and Conclusions (Chapter 12) of the Panel's Report, the Panel recommends that the DCO be made, as set out in Appendix D to the Panel's Report

Summary of Secretary of State's Decision

8. **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 the 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 – which apply to this application by operation of regulation 37(2)(a)(ii) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

Secretary of State's Consideration of the Application

9. The Secretary of State's consideration of the Panel's Report, and all other material considerations including the further representations received after the close of the Panel's examination in response to the Secretary of State's consultation letter of 22 August 2019 are summarised in the following paragraphs. Where not stated in this letter the Secretary of State can be taken to agree with the Panel's findings, conclusions and recommendation as set out in the Panel's Report, and the reasons for the Secretary of State's decision are those given by the Panel in support of the conclusions and recommendations. All "PR" references are to the specified paragraph in the Panel's Report and references to "requirements" are to those in Schedule 2 to the DCO as recommended by the Panel at Appendix D to the Report.

Legal and Policy Context

10. The Secretary of State notes that under section 104 of the 2008 Act he must decide the application in accordance with the National Policy Statement for National Networks ("NPSNN") designated in December 2014, subject to certain exceptions which are not relevant in this case. He also notes that consideration must be given to the appropriate marine policy documents, determined as such in accordance with section 59 of the Marine and Coastal Access Act 2009, though it is noted the Proposed Development does not affect tidal waters. The Secretary of State notes that he must also have regard to any local impact reports submitted within the statutory timetable, including any matters prescribed in relation to development of the description to which the application relates; and any other matters which the Secretary of State thinks are both important and relevant to the decision (PR 3.2.3). He notes the Panel's assessment of other legislation and policy and agrees these are relevant and important matters to be considered in deciding this application.
11. The Secretary of State confirms that, in considering the application, he has had regard to all the legislation and policy identified by the Panel, including the three Local Impact Reports from Northamptonshire County Council ("NCC"), South Northamptonshire Council ("SNC") and Northampton Borough Council ("NBC") referred to at PR 4.3 and all relevant development plan policies.
12. It is the view of the Secretary of State that the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 ("the 2009 Regulations") have been fully met by the environmental statement ("ES"). He confirms that, in coming to his decision to make the DCO, he has taken into consideration all the environmental information in accordance with regulation 3(2) of the 2009 Regulations.

Need for the Proposed Development

13. The Secretary of State has considered the nature of the Proposed Development and agrees with the Panel that the scheme is an SRFI in NPSNN terms (PR 4.7.12).
14. The Secretary of State notes that paragraph 2.56 of the NPSNN identifies that there is a compelling need for an expanded network of SRFIs. The Secretary of State has considered that the NPSNN does not set out any policy restrictions or geographical restraints on the number of SRFIs across locations to meet demand (PR 4.7.53).
15. The Secretary of State agrees with the Panel that it is for the market to determine the feasibility of particular proposals and notes there will be limited suitable locations for SRFIs (PR 4.7.53).
16. The Applicant's case for the need of the Proposed Development has been considered by the Secretary of State and he has noted the objections against the proposal and the Panel's overall conclusions at PR 4.7.59.
17. The Secretary of State notes that the existing Daventry International Rail Freight Interchange ("DIRFT") is 29 km from the Proposed Development site and there were arguments raised in relation to need for the Proposed Development considering the proximity to DIRFT. However, the Secretary of State notes that operational collaboration and linkage between closely related SRFIs does take place (including between SRFIs geographically closer than DIRFT and the Proposed Development), and notes the Panel's consideration that a similar relationship between DIRFT and the Proposed Development might also occur. The Secretary of State therefore agrees with the Panel that the proximity of DIRFT does not undermine the Applicant's justification of need (PR 4.7.45).
18. The Secretary of State has also noted the possible proposal of the national rail freight interchange at Hinckley in Leicestershire and notes that at the time of writing an application for the scheme had not yet been submitted. The Secretary of State agrees with the Panel that it is not the correct approach when assessing the justification for the Proposed Development to compare the scheme with putative proposals such as Hinckley (PR 4.7.52).
19. The Secretary of State agrees with the Panel that the Proposed Development meets the criteria for function, transport links, locational requirement, scale and design of an SRFI as set out in paragraphs 4.83 – 4.89 of the NPSNN. The Secretary of State has carefully assessed the justification for the Proposed Development and he agrees with the Panel that taking into account the NPSNN and arguments outlined in the Panel's Report that the need for the Proposed Development has been made.

Findings and Conclusions in Relation to Transport Related Issues

Highway Issues

20. The Secretary of State notes that the Proposed Development would provide a series of highway works to the Strategic Road Network and surrounding local roads. He also notes that the baseline conditions show that Junction 15 of the M1 currently experiences high levels of traffic and is regularly heavily congested. The Secretary of State agrees with the Panel that congestion from background traffic is expected to worsen and the performance of Junction 15 would further deteriorate with the addition of traffic from the Proposed Development. He accordingly agrees that the improvement works to Junction 15 are a necessary component of the Proposed Development. (PR 5.3.1).
21. The Secretary of State notes the concerns raised by Interested Parties regarding the ability of the road network to accommodate over 16,000 purported vehicles per day from the Proposed Development, and the impact to the A508 when it is used as an emergency diversion route for the M1 (PR 5.3.94). The Secretary of State has considered the Applicant's response that the largest increase in traffic would be from a southbound pm peak hour closure of the M1 resulting in 6,000 vehicles per hour diverting onto A508 southbound. The Proposed Development would increase this figure by 200 vehicles (only 37 of which would be HGVs) and the Secretary of State agrees with the Panel that this small increase is not significant (PR 5.3.89 and PR 5.3.95).
22. The Secretary of State has considered the concerns that were raised over the proposed left-in / left-out configuration of the Courteenhall / Blisworth Road junction on the A508, which would require those traveling to Blisworth on the A508 to use the Roade Bypass and Knock Lane. The Secretary of State notes that drivers currently turning right off the A508 into Courteenhall Road block southbound traffic on the A508, causing queues and delays. The Secretary of State agrees with the Panel that this modification will increase traffic flow along the A508 and that this outweighs the inconvenience caused (PR 5.3.15 and PR 5.3.96).
23. The Secretary of State has given due consideration to policies in local plans, in line with paragraph 5.211 of the NPSNN. He notes that Policy C2 (new developments) of the West Northamptonshire Joint Core Strategy encourages modal shift away from the private car and Policy C3 (strategic connections) seeks to support Northampton's strategic connections (PR 5.2.39). The Secretary of State notes that the implementation of both the Framework Travel Plan ("FTP") and the Public Transport Strategy (PTS"), as secured by requirement 4 in Schedule 2 to the DCO, aim to enhance and promote sustainable travel to the Proposed Development and ensure staff working at the site (during operation) have reasonable alternatives to the private car for their commute to work (PR 7.1.23). The Secretary of State agrees with the Panel that the Proposed Development is consistent with these policies (PR 5.3.108).
24. The Secretary of State notes paragraph 110(e) of the NPPF outlines that developments should be designed to allow charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. The

Secretary of State is content that requirement 8(1)(c) of the DCO ensures such facilities would be provided (PR 5.3.98).

25. The Secretary of State has also considered paragraph 103 of NPPF, which states that a significant development should be focused on locations that can be made sustainable through limiting the need for travel and offering a choice of transport modes. The Secretary of State however agrees with the Panel that the new bus service and proposals for cycling and walking (secured through the FTP and PTS) would arguably provide a sustainable development and off-set a potential breach of paragraph 103 (PR 5.3.111). The Secretary of State notes that the NPPF is subordinate to the NPSNN's policies and agrees with the Panel's consideration that SRFIs need large sites and can only realistically to be located adjacent to railway lines and the road network (PR 5.3.98).
26. The Secretary of State agrees with the Panel that the objectives in the NPSNN and national, regional and local transport policies are met (PR 5.3.106). Subject to proposed changes noted by the Panel in the dDCO, and which the Secretary of State has decided to accept, the Secretary of State agrees with the Panel that there are no highway transport reasons significant enough to warrant refusal to grant development consent (PR 5.3.113).

Rail Issues

27. The Secretary of State accepts that the Applicant has sufficiently demonstrated the ability to create connections to the Northampton Loop Line ("NLL") from the Proposed Development, confirmed to GRIP 2¹ and via the Statement of Common Ground ("SoCG") with Network Rail ("NR") (PR 5.4.4). He recognises the suggestion that, given the complexities of potentially two SRFIs connection to the rail network in close proximity, analysis should have been to GRIP 4, but accepts the Panel's view that GRIP 2 is intended to prove feasibility of technical and operational facility and is the appropriate level at this stage (PR 5.4.36).
28. The Secretary of State notes that paragraph 4.89 of the NPSNN requires the Proposed Development to be capable of running four trains per day as a minimum. He also notes the concerns raised by a number of Interested Parties that the rail system will not be able to cope with the additional projected use by the Proposed Development (PR 5.4.16 – PR 5.4.29). Consideration has been given to the reports commissioned by the Applicant from Victra Railfreight and GB Railfreight (collectively, "the Rail Reports"), which assessed capacity on the West Coast Main Line ("WCML") to accommodate the additional freight paths to serve the Proposed Development (PR 5.4.7). The Secretary of State notes that both firms operate within the freight sector and he agrees with the Panel that a high degree of reliance can be placed upon the reports produced (PR 5.4.39).
29. The modelling provided by the Applicant in the Freight Timing Report, which calculated technical running times on the NLL, is noted by the Secretary of State. The Secretary of State has considered that at the time of the study the modelling demonstrated that four train paths per day could be accommodated at the proposed operational start date of the Proposed Development (PR 5.4.8).

¹ GRIP – Governance for Railways Investment Projects, consisting of eight levels.

30. The Secretary of State notes that NR confirmed in their SoCG that there would be capacity on NLL for four trains per day at the start of operation of the Proposed Development, although this is subject to the origin and destination of each train being known. (PR 5.4.41). The Applicant's view that no SRFI would be capable of providing the origin and destination information at this point of the development, given it is entirely dependent upon the occupants [of the development] and their operations, is accepted by the Secretary of State and he agrees with the Panel that this is a valid explanation as to why more certainty cannot be provided (PR 5.4.41).
31. The Secretary of State notes and agrees with the Panel's conclusion at the first bullet point of PR 5.4.52 that although no absolute certainty can be provided regarding capacity it is, on the balance of probabilities, feasible that the Proposed Development could be connected to the rail network and capable of being served by four trains per day.
32. The Secretary of State notes the Panel's conclusion that the aspirational 16 trains per day is more uncertain. The Secretary of State however agrees with the Panel that the uncertainty caused by likely constraints and competitions on the network and the unknowns regarding how the network will accommodate future growth has to be set against the Government's ambition, set out in paragraph 2.53 of the NPSNN, that it is important to facilitate the growth of the intermodal rail freight industry to support a low carbon sustainable system that is the engine for economic growth (the second bullet point of PR 5.4.52).
33. The Secretary of State notes that in order to satisfy the NPSNN the Proposed Development would need to have the physical and technical capability to handle the four trains per day. He agrees with the Panel that any uncertainty over this would result in the Proposed Development not being able to proceed. The Secretary of State has considered requirement 3(3) of the dDCO and agrees with the Panel that this provides assurance that when operational the Proposed Development would be able to cater to the four trains per day minimum requirement. (PR 5.4.38).
34. The Secretary of State notes that the Rail Report documents indicate that freight traffic will likely grow over time and this is matched by the expected increase in the WCML freight capacity provided by HS2. The Secretary of State notes the amount of capacity to be released by HS2 remains uncertain, particularly because at the time of writing the HS2 scheme remains under review. However, the Secretary of State is satisfied that the Proposed Development is not reliant on HS2 capacity being provided. (PR 5.4.40).
35. The Secretary of State notes the concerns that granting freight paths to the Applicant will come at the expense of passenger trains (PR 5.4.19 – PR 5.4.24) and also notes the suggestion of the Northampton Rail Users Group ("NRUG") that if the Proposed Development was to be consented a requirement should be included that would ensure no adverse effect on passenger services (PR 5.4.26).

36. The Secretary of State notes the objective in the Network Code² is to share capacity on the network for the safe carriage of passengers and goods. He also notes that when compiling a timetable NR must assess all operators' requirements together and not look at freight services after passenger service or vice versa (PR 5.4.44). The commitment to facilitate additional rail freight in line with the NPSNN is noted by the Secretary of State and he agrees with the Panel that it is reasonable to think that future investment to ensure capacity would be provided (PR 5.4.46).
37. The Secretary of State notes that NR's Freight & National Passenger Operators' Route Plan (2018) addresses the interests of all rail users and indicates a programme to accommodate them. The Secretary of State notes that in regard to the WCML, the plan includes a commitment to facilitate new terminal developments, including at Northampton (PR 5.4.47). The Secretary of State is satisfied that NR have also noted that if additional freight paths were granted this would not be taking away the opportunity to run passenger services in the future (PR 5.4.47).
38. Accordingly, the Secretary of State agrees with the Panel that the inclusion of the requirement as suggested by NRUG would be contrary to the Network Code and the impartiality that NR should exercise in the allocation of capacity in the light of competing bids. Further, the Secretary of State agrees that it would be inappropriate to attempt to restrict the way in which the rail network is used. As such the proposed requirement is not being included in the DCO. (PR 5.4.48)
39. The Secretary of State has considered all issues regarding rail transport aspects in the Panel's Report and he is content that the Proposed Development could be connected to the rail network and capable of being served by four trains per day, in accordance with the NPSNN, and that there are no matters that warrant refusal of the DCO.

Air Quality

40. The Secretary of State notes the Panel's uncertainty over the assessments that had been carried out to reach the conclusion that the overall effects on air quality from off-site construction vehicles and on-site construction plant and vehicle emissions would be negligible. The Secretary of State agrees with the Panel that the figures in Appendix 9.11 of the ES which were used to formulate this conclusion appear to be for off-site construction vehicles only, so do not include the impact from on-site construction plant and vehicle emissions (PR 6.5.44).
41. The Secretary of State in his letter dated 22 August 2019 asked the Applicant to provide clarity on what assessments had been carried out, to reach the conclusion in Appendix 9.11 that the overall impact of construction is predicted to be negligible.

² The Network Code is a common set of rules and industry procedures that apply to all parties that have a contractual right of access to track owned and operated by NR.

42. The Panel's concern that it is not obvious how the effects of emissions from on-site plant vehicles or off-site construction traffic had been assessed for Roade Bypass, A508 Corridor and Other Highway Mitigation Measures is also noted by the Secretary of State (PR 6.5.44). The Secretary of State asked the Applicant to clarify this in his letter dated 22 August 2019.
43. The Applicant's response dated 5 September 2019 has been considered by the Secretary of State and it is noted at paragraph 3.9 of the response that on-site vehicle and plant emissions were assessed by the application of a qualitative assessment in line with Defra's Local Air Quality Management Technical Guidance (LAQM.TG(16)). The Secretary of State notes that this assessment, the conclusion reached or the application of the guidance was not explained in the Air Quality Chapter of the Applicant's Environmental Statement.
44. The Secretary of State has considered the further quantitative and qualitative assessments that have been undertaken by the Applicant for on-site plant and on-site vehicle emissions noted at paragraph 4.2 of the Applicant's response.
45. The Secretary of State has considered the quantitative modelling assessment data for the Main Site, the Roade Bypass and Junction 15 that is provided in Table 1 and Table 2 of the Applicant's response (paragraph 4.19 to 4.22). The Secretary of State notes that the assessment data shows the increase in NO₂ and PM₁₀ concentrations resulting from on-site emissions or the combined impact of on-site emissions and off-site construction traffic are both predicted to be negligible.
46. The Secretary of State notes the Applicant's explanation to carry out a qualitative assessment for the remainder highway works rather than a quantitative assessment, and he is satisfied that the criteria in LAQM.TG(16) has been followed. The Secretary of State notes the results of the qualitative assessment of impacts presented in Table 3 of the Applicant's response and he is satisfied that this demonstrates there will be no likely significant impact on local air quality.
47. Having considered the results of both the quantitative and qualitative assessments provided in the Applicant's response to the Secretary of States letter dated 22 August, together with the results at Appendix 9.11 of the ES, the Secretary of State is satisfied there will be no significant impact on local air quality and the overall impact of all the works will remain negligible and is compliant with the NPSNN.

Socio-economics

48. The Secretary of State has considered the approach taken to assess the socio-economic effects of the Proposed Development outlined in section 3.3 of the ES and notes the Study Area used for the assessment comprises six local authority areas (PR 7.1.10).
49. The Secretary of State notes that the Applicant anticipates construction to last five years and if consent is granted construction would commence for the Proposed Development in 2020 (PR 7.1.11).

50. The Secretary of State has considered that job requirements for construction of the Proposed Development will vary from both managerial roles and manual labouring roles during each phase of construction (PR 7.1.11). He has taken into consideration that 139 full time employment positions (of which 108 will be construction jobs) will be created during the construction period but recognises that this is for a short-term period and agrees with the Panel that this will therefore be of a relatively minor beneficial effect (PR 7.1.12).
51. The Secretary of State welcomes that several enhancement measures proposed by the Applicant are aimed to benefit local businesses and communities such as use of local sourcing wherever possible, a recruitment training programme focusing on South Northamptonshire Job Clubs and training opportunities and apprenticeships with local colleges and training centres. The Secretary of State has considered the benefits that these enhancement measures would bring and he is satisfied to see them secured by requirement 28 in the dDCO (PR 7.1.13 and PR 7.1.14).
52. The Secretary of State notes the occupation of the Proposed Development is planned to commence in 2021/2022 through to 2025/2026 (PR 7.1.16). He has considered the assessment undertaken by the Applicant that demonstrates the Proposed Development, when operating at full capacity, would provide direct employment for 7,332 full time jobs across the Study Area (PR 7.1.15).
53. Considering the phased occupation, the Secretary of State has noted it is anticipated that 1,000 people would be employed in its first year of occupation, followed by an increase of 1,000 people each year through to 2026 (PR 7.1.16).
54. The question whether the Study Area has a sufficiently large enough workforce to fill the jobs created by the Proposed Development has been considered by the Secretary of State. The Secretary of State notes that the findings of the Applicant's assessment is that new jobs would be filled through a variety of avenues, which include those changing jobs, individuals who have reached employment age, those who have undergone retraining, people that are new to the area and those who would commute (PR 7.1.72 and PR 7.1.73).
55. The Panel notes that the logistics sector accounts for a high proportion of employment in the region. The Secretary of State however agrees with the Panel that the Proposed Development would also provide significant employment opportunities within the Study Area (PR 7.1.79).
56. Through the enhancement measures secured by requirement 28 of the dDCO, the Secretary of State is satisfied that Study Area would be able to provide a sufficiently large enough workforce to fill both construction and operational employment opportunities (PR 7.1.79). The Secretary of State has considered the Panel's point on the effect of Brexit on future labour supply in relation to the Proposed Development at PR 7.1.78 and he is satisfied that the Applicant has demonstrated how the work force will be sourced (PR 7.1.13). The Secretary of States does not therefore anticipate Brexit as a potential obstacle to the availability of an adequate workforce for the Proposed Development.

Landscape and Visual Impacts

57. The Secretary of State notes the Panel's consideration of the landscape and visual impacts of the Proposed Development at PR 7.2.34 and the conclusion that there would be adverse landscape and visual effects during construction of the Main Site and in respect of the Rhode Bypass, which taken together would amount to a substantial impact. The Secretary of State however notes that these could be partially mitigated through careful construction management (PR 7.2.38).
58. The Secretary of State notes that beyond the Main Site the adverse impacts would be reduced as the landscaping on screening bunds around the site matured (PR 7.2.40). The Secretary of State has considered the Applicant's Design and Access Statement which notes that a range of external materials and colour palettes would be available to soften and break up the visual proportions of the larger buildings (PR 7.2.42).
59. It is noted that there are few residential properties that would have close views of the Main Site and the Secretary of State agrees with the Panel that through the proposed mitigation the visual harm would not be significantly adverse (PR 7.2.44).
60. The Secretary of State has considered the proposed screening and landscaping for the Roade Bypass which would help mitigate the adverse impact of the highway infrastructure and help it blend into the surrounding landscape and western village environs. The Secretary of State agrees with the Panel's that once landscaping is matured the impact of the Roade Bypass would only be moderately adverse (PR 7.2.39).
61. The Secretary of State notes the Panel's conclusions at PR 7.2.50 and is satisfied that having regard to Applicant's design and appropriate mitigation, the Proposed Development would be compliant with the NPSNN and he does not consider the landscape and visual impacts a ground for refusal.

Historic Environment

62. The Secretary of State notes that in accordance with regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 the Panel has had regard to the desirability of preserving listed buildings, their setting and any features of special architectural or historic interests (PR 7.5.41).
63. The Secretary of State notes at PR 7.5.8 that no designated built heritage assets are contained within the Main Site or Roade Bypass corridor. The Secretary of State however notes that the Collingtree, Milton Malsor and Roade Conservation Areas have been assessed as likely to be affected by the Proposed Development of the Main Site, which are Grade II and II* listed buildings (detailed in Table 10.4 of ES Chapter 10) contained within this area.

64. The Secretary of State notes that in regard to heritage assets, following assessment including visual impact, lighting, noise and vibration, the ES concludes that on both construction and operation of the Proposed Development that the significance of effects would be only minor adverse for the listed buildings and negligible adverse for the Conservation Areas of Collingtree and Milton Malsor (PR 7.5.10).
65. The Secretary of State notes that the significance of effect of the Proposed Development on Courteenhall Registered Park and Garden, including its listed buildings, was assessed as being minor adverse at both construction and operational stages of the Proposed Development (PR 7.5.10).
66. The Applicant's assessment has been considered by the Secretary of State and he agrees with the Panel that the Proposed Development would not lead to anything other than minor adverse effects on the significance of the protected heritage assets through impact on their setting (PR 7.5.41).
67. The Secretary of State considered the views of the Panel that any harm to heritage assets through impact on their setting would be less than substantial, also noting that that this conclusion is supported by Historic England (PR 7.5.42).
68. The Secretary of State has considered the demolition of two barns within the Main Site, although these are non-designated heritage assets, the Secretary of State has noted this would result in a loss of heritage assets of local significance. The Secretary of State however agrees with the Panel that this needs to be weighed against the benefits the scheme, together with the less significant harm to designated assets (PR 7.5.43).
69. The Secretary of State notes paragraph 5.142 of the NPSNN requires him to ensure that appropriate procedures are in place for the identification and treatment of heritage assets with archaeological interest, which are discovered during construction (PR 7.5.4).
70. The Secretary of State has considered the arguments raised by NCC regarding the adequacy of the Applicant's archaeological investigation. The Secretary of State however agrees with the Panel that at this stage the Applicant's archaeological investigations meet the tests of the NPSNN at para 5.127 and 5.142 (PR 7.5.45).
71. The Secretary of State notes that further archaeological work would need to be undertaken through the operation of requirement 14 of the dDCO, which would be subject to the approval of the relevant planning authority. The Secretary of State agrees with the Panel's that this would provide a sufficient safeguard to ensure that possible archaeological discoveries would be appropriately mitigated either in situ or through preservation by recording (PR 7.5.46).

Habitat Regulation Assessment

72. The Secretary of State for Transport is the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 ("the Habitats

Regulations”) which transpose the Habitats Directive (92/43/EEC) into UK law for transport applications submitted under the 2008 Act. The Habitats Regulations require the Secretary of State to consider whether the Proposed Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on a European site, as defined in the Habitats Regulations. If likely significant effects cannot be ruled out, then an appropriate assessment must be undertaken by the Secretary of State pursuant to regulation 61(1) of the Habitats Regulations to address potential adverse effects on site integrity. In light of any such assessment, the Secretary of State may grant development consent only if it has been ascertained that the project will not, either on its own or in-combination with other plans and projects, adversely affect the integrity of such a site, unless there are no feasible alternatives or imperative reasons of overriding public interest apply.

73. The Secretary of State has considered the Panel’s assessment at Chapter 8 of the Panel’s Report of the likely significant effects of the scheme on the single European site potentially affected by the scheme – the Upper Nene Valley Gravel Pits SPA / Ramsar (PR 8.2.4). The Secretary of State notes that the Panel, having considered carefully the relevant evidence, is satisfied that there are no likely significant effects of the Proposed Development on any European site or their qualifying features, a view which is endorsed by Natural England (PR 8.3.1), and therefore, it is not necessary to carry out an appropriate assessment (third bullet point in PR 8.4.1). The Secretary of State agrees with this view and concludes that it is unnecessary for him to carry out an appropriate assessment under the Habitats Regulations.

Cumulative Impact

74. The NPSNN sets out a general requirement to consider cumulative effects as part of the ES, showing how the effects of the Proposed Development would combine and interact with the effects of other developments, either in existence or where consent has been sought or granted.
75. The Secretary of State notes that consideration has been given to the potential cumulative impact of the Proposed Development with other approved or committed developments (PR 7.1.44).
76. The Secretary of State notes that the Rail Central (“RC”) project³ is not regarded as a committed development but it has been identified as a relevant scheme for consideration given its proximity to the Proposed Development. At the time of the examination into the Proposed Development the Secretary of State notes that the RC examination had not yet commenced (PR 7.1.48).
77. The Secretary of State notes that the Transportation Chapter of the ES included some comments on the cumulative traffic effects of the Proposed Development with the RC project. The Secretary of State however has considered the comments of both the Applicant and RC at Issue Specific Hearing 4 that there

³ The Rail Central project is another NSIP for a similar SRFI on land adjoining and partially overlapping the Main Site of the Proposed Development.

were not any reliable figures for the RC development on which to base cumulative traffic effects. The Secretary of State notes the Panel accepts the RC data is currently not available and he also accepts these submissions (PR 5.3.55).

78. The Secretary of State notes that the Applicant attempted to assess the cumulative traffic effects with the RC proposal in the Air Quality Chapter of the ES. However, the Secretary of State notes that there were difficulties with the data available prior to the submission of the RC application and has considered as a result it meant no reliable or meaningful assessment with the RC proposal could be maintained (PR 6.3.53).
79. Due to the uncertainty around RC data, the Secretary of State agrees with the Panel that the cumulative effects of the RC proposal with the Proposed Development cannot be appropriately dealt with. The Secretary of State agrees with the Panel that this will be for the relevant examining authority and Secretary of State to assess when considering RC's application (6.5.28).

Conclusion on the case for Development Consent

80. The Secretary of State notes that in reaching its overall recommendation for the granting of development consent, the Panel has taken regard of the NPSNN, the development plan, the NPPF and LIRs and all other matters which it considers to be both important and relevant.
81. The Secretary of State notes that paragraph 2.56 of the NPSNN recognises a compelling need for an expanded network SRFIs and that paragraph 4.2 sets out a presumption in favour of granting consent to applications for a SRFI development (PR 9.1.1).
82. The Secretary of State notes that one of the elements of the Government's vision and strategic objectives for national networks is networks which support the delivery of environmental goals and the move to a low carbon economy (page 9, Chapter 2 NPSNN). The Secretary of State further notes that paragraph 2.40 of the NPSNN states that modal shift from road to rail can help reduce transport carbon emissions (PR 4.4.16). Accordingly, the Secretary of State agrees with the Panel that the Proposed Development is compliant with the NPSNN requirements for SRFIs (PR 9.2.1).
83. The Secretary of State therefore agrees with the Panel's conclusion (at PR 9.3.4) that the strategic benefits of the Proposed Development in contributing to an expanded network of SRFIs to assist in achieving and promoting modal shift of freight from road to rail, and thereby playing an important part in the move to a low carbon economy, are such that they outweigh the adverse impacts of the construction and operation of the Proposed Development.

Other Considerations

Community Fund Contribution

84. The Secretary of State notes the Panel agrees that the Section 106 Agreement to pay the Community Fund Contribution meets tests for a valid planning obligation under section 106 of the Town and Country Planning Act 1990 (PR 11.4.74). However, the concerns raised by the Panel on whether the Community Fund meets the tests in paragraph 4.10 of NPSNN have been considered by the Secretary of State (PR 11.4.75). The Secretary of State agrees with the Panel that the Community Fund fails at least two tests in paragraph 4.10, in that it is not necessary to make the Proposed Development acceptable in planning terms and it is not possible to determine whether the Fund is fair and reasonable (PR 11.4.75).
85. The Secretary of State recognises that the £300,000 provided by the Community Fund Contribution would greatly support the qualifying projects, but agrees with the Panel that it is not appropriate to include it as a requirement in the DCO and has therefore placed no reliance or weight on the fund in his decision PR 11.4.75).

Travel Plan Monitoring Fee

86. The Secretary of State notes the Panel's consideration regarding the Travel Plan Monitoring Fee in the Section 106 Agreement and he has taken account of the litigation noted by the Panel over the acceptability of monitoring fees in the context of regulation 122 of Community Infrastructure Levy Regulations 2010.
87. The Secretary of State notes that regulation 122 does not apply to NSIPS although the necessity test is provided in the same terms in paragraph 4.10 of the NPSNN. The Secretary of State agrees with the Panel's conclusion on this matter and he has not given any weight to the availability of this payment in his decision (PR 11.4.77 to PR 11.4.78).

Compulsory Acquisition and Related Matters

88. The Secretary of State has considered the compulsory acquisition ("CA") powers sought by the Applicant in accordance with sections 122, 123, 127, 131, 132 and 138 of the 2008 Act, the Human Rights Act 1998 and relevant guidance.
89. The Secretary of State notes the Panel's consideration of CA and related matters at Chapter 10 of the Panel's Report, and that there were issues relating to CA, temporary possession ("TP") and protective provisions for statutory undertakers unresolved at the close of the examination, which are considered below.

Network Rail

90. The Secretary of State notes the Applicant provided an update to the Panel that the protective provisions had been agreed between the Applicant and NR, but discussions were on going in relation to rights to construct the bridge (PR 10.5.21). He notes from NR's final correspondence [REP9-001] before the close of the Examining Authority's examination that the Applicant and NR were holding

advanced discussions regarding the content of a framework agreement and once completed NR anticipated they could withdraw their objection (PR 10.5.23).

91. The Secretary of State notes a further update on the matter was provided by NR after the close of the examination, which advised that the protective provisions and a framework agreement had been agreed and confirmation provided that the objection had been withdrawn. The Secretary of State has considered the rights that would be acquired and / or created and he agrees with the Panel that these are necessary to allow the realisation of the Proposed Development.
92. The Secretary of State has considered all other objections and issues in relation to CA and TP powers noted at PR 10.5.25 to PR 10.5.39, and he agrees with the Panel's conclusion at PR 10.6.1 that the CA of rights and the TP of land for works related to the Proposed Development would be justified.

Late Representations (outside formal consultation)

93. The Secretary of State has received correspondence from Andrea Leadsom MP noting the concerns of her constituents in relation to the Proposed Development since the examination closed, in addition to the formal consultation that was undertaken, including correspondence referred to in this letter. He also notes the recent petition to the House of Commons relating to this Development.
94. The Secretary of State does not consider that anything in the correspondence or petition constitutes new evidence, or raises a new issue, which needs to be referred to interested parties before he proceeds to a decision. It does not cause him to take a different view on the matters before him than he would otherwise have taken based on the Panel's report.

Draft Development Consent Order and Related Matters

95. The Secretary of State has considered the Panel's assessment of the dDCO in Chapter 11 of the Panel's Report, in particular, whether to accept requirement 32 as an exception to policy and the recommended changes to the dDCO provided in Table 8 at 11.5 of the Panel's Report.
96. The Secretary of State has considered requirement 32 of dDCO, which has been agreed between the Applicant and RC and relates to the compatibility of rail connections between the two SRFI's proposals. The Secretary of State notes NR have confirmed they are content with the requirement and that their interests are protected by protective provisions within Part 1 of Schedule 13 to the dDCO. The Secretary of State has considered the submission by South Northampton Council ("SNC") at Issue Specific Hearing 5 regarding their concerns to requirement 32, specifically that they do not have the required expertise to assess whether the connections are compatible, and that this would require the input from NR (PR 5.4.34, PR 11.4.148).
97. The Secretary of State is of the view that this requirement would be helpful if both developments were to be taken forward. Given the Applicant, RC and NR are all content with the requirement, the Secretary of State is satisfied with the Panel's

recommendation that requirement 32 should be retained in the dDCO. The Secretary of State therefore agrees with the Panel and makes an exemption to the five policy tests outlined in Advice Note 15 (PR 11.4.154). To address SNC's concerns he has, however, added the specification that the relevant planning authority must consult NR prior to approving the details of the works, ensuring that the planning authority receives the necessary technical advice as to the compatibility of the connections.

98. The Secretary of State notes the issue between Highways England ("HE") and the Applicant in respect of deemed consents, as found in article 13 (accesses) of, and paragraph 15 of Part 2 of Schedule 13 to, the dDCO (PR 11.4.176 – 11.4.187). He considers that the concerns of HE, in carrying out its statutory duties and ensuring the safety of the strategic road network, are valid. He also notes the Applicant's submissions relating to difficulties in obtaining responses from HE on previous developments and that the mechanism is to ensure engagement in the process.
99. While the Secretary of State notes the Applicant's view that deemed consents have been used before, and that HE has benefited from them in recent development consent orders, his view is that the deemed consents in HE's orders did not generally relate to the consenting of major works, as in this case, and that further there was no objection from the affected authorities or bodies. He further notes that the deemed consent in relation to approvals by Network Rail in the M4 Motorway (Junction 3 to 12) (Smart Motorway) Development Consent order 2016 ("the M4 order") includes a second notification stage, including specific reference to the deemed consent provisions in that notice, before consent is deemed to have been given.
100. The Secretary of State recognises the role that the deemed consent provisions play in ensuring the development is not unnecessarily delayed, but considers some additional protections in light of HE's concerns are necessary. Accordingly, the dDCO has been amended at article 13 and paragraph 15 of Part 2 of schedule 13, to include a second notification stage similar to that included in the M4 Order.
101. The Secretary of State has also removed the deemed issuing of certificates from paragraph 15 as he is of the view that the issuing of a certificate cannot be deemed.
102. The Secretary of State is satisfied that, subject to the qualifications referred to in this letter and the additional changes made to the dDCO as detailed in the paragraphs below, the dDCO as set out at Appendix D to the Panel's report is appropriate and acceptable for the purposes of the Proposed Development.
103. The main modifications which the Secretary of State has decided to make to the dDCO, not mentioned elsewhere in this letter, are as follows (references to article numbers, paragraphs and requirements in this paragraph are to the same as numbered in the DCO as made):

- the definition of “hedgerow” in article 2 has been amended as the Hedgerow Regulations 1997 do not provide a specific meaning;
- terms relevant to communications code networks have been updated to reflect changes made by the Digital Economy Act 2017;
- paragraph (6) of article 2 has been removed as the term “approximate” is not used in the DCO in the context described in the paragraph;
- article 4(2) has been amended to ensure that certification cannot be given to allow any deviation in excess of the limits where it could give rise to effects on the environment that should have been assessed in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 which have not been. This reflects the Secretary of State’s preferred drafting and ensures a consistency of approach across transport development consent orders. This change has been effected in corresponding provisions for subsequent approvals etc.;
- paragraph (3) of article 4 has been removed as the provisions of the 2017 EIA Regulations apply only where such subsequent applications relate to development which is likely to have significant effects on the environment. Such development would not be permitted under article 4 given the restriction in paragraph (2) and accordingly the application of the provisions of the 2017 EIA Regulations is not appropriate;
- paragraph (3) of article 15 has been redrafted to ensure that it is clear that the declassification of the relevant highways is linked to the event set out in the Schedule, and doesn’t take effect immediately upon the DCO coming into force;
- paragraph (3) of article 18 has been redrafted for clarity;
- compensation measures have been included in articles 24 and 25 given that interference with private rights can be affected directly under those articles; and
- compulsory acquisition provisions have been updated to reflect changes to the general legislation by the Housing and Planning Act 2016;

104. The Secretary of State is making a number of other minor textual amendments to the dDCO in the interests of clarity, consistency and precision. He considers that none of these changes, nor the changes set out elsewhere in this letter, either individually or taken together, materially alter the effect of the DCO.

Secretary of State’s overall conclusion and decision

105. For all the reasons given in this letter, the Secretary of State considers that there is a clear justification for authorising the Proposed Development and has therefore decided to accept the Panel’s recommendation at section 12.3 of the Panel’s Report and is today making the Northampton Gateway Rail Freight Interchange Order, subject to the changes referred to above. He is satisfied that none of these changes, constitute a material change. He is therefore satisfied that it is within the powers of section 114 of the 2008 Act for him to make the DCO as now proposed.

Challenge to decision

106. 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

107. 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 2009 Regulations.

Yours faithfully,

Ros Wall

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 Northampton Gateway Rail Freight Interchange Order 2019 is being published on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/east-midlands/northampton-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).