

Tritax Symmetry (Hinckley) Limited

**HINCKLEY NATIONAL
RAIL FREIGHT INTERCHANGE**

**The Hinckley National Rail Freight Interchange
Development Consent Order**

Project reference TR050007

**Applicant's response to deadline 3 submissions [Part 5 -
Land Owners]**

Document reference: 18.13

Revision: 01

9 January 2024

Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
Regulation 5(2)(q)

Barwood Development Securities Limited, Parker Strategic Land Limited and Ms Jennifer Taylor

Response Number	Shoosmiths LLP on behalf of Barwood Development Securities Limited, Parker Strategic Land Limited and Ms Jennifer Taylor	Applicant's Response
1	<p>Introduction</p> <ol style="list-style-type: none"> 1. The consortium and Mrs Taylor by whom we are instructed own and control Plot 122 within Schedule 10 of the draft DCO which is listed as being subject to temporary possession powers under Article 32. The inclusion of this land is objected to by Mrs Taylor and the consortium. 2. The consortium and Mrs Taylor's written representations are found at REP1-217. Their position, in respect of the proposed temporary possession powers, is that: <ol style="list-style-type: none"> a. No compelling case has been made; b. Alternative means exist to bring about the scheme using land elsewhere; c. There is a lack of consideration of alternatives. 3. Three points are made by the Applicant in their response document REP1-027. They are: <ol style="list-style-type: none"> a. That the justification is set out within the Statement of Reasons (REP1-005). b. That this location is also justified because Plot 122 is the 'closest and most suitable' location for the temporary use of land as a construction compound whilst the associated traffic signals and junction works are taking place. c. Taking temporary possession would not be likely to interfere with the consortium's development plans for their land. 	<p>The Applicant notes these comments.</p>

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	4. These points are not well made, for the following reasons:	
	<p>Justification in SoR</p> <p>5. The SoR says nothing specifically about plot 122. The only site-specific justification is now found within the applicant's response document REP1-027.</p>	<p>The Applicant notes these comments but confirms that more information has been provided in discussions with the Consortium and Mrs Taylor. The Applicant has followed the same approach in regard to the level of detail provided in the SoR as per other DCOs.</p>
2	<p>Justification in general</p> <p>6. However, even in document REP1-027, there is no analysis or explanation given for why approximately 1.5 acres of land is required for a construction compound only associated with relatively minor traffic signal and junction improvement works at the Hinckley Road / Stanton Lane junction. Without any such analysis or explanation, the proposed land take in plot 122 appears excessive.</p> <p>7. The applicant also states that the shape of plot 122 has been carefully drawn to minimise the impact on Mrs Taylors land. In particular, the 'donut' shape has been drawn to allow appropriate access in a way which avoids hedgerow removal and that exclusive possession of the access way will not be taken. However, Article 32 of the draft DCO does not refer to non-exclusive possession. Furthermore, the applicant accepts that the centre of the field would be 'isolated'.</p> <p>8. In light of this, it is hard to see how plot 122 is 'the most suitable' shape and location for such a compound. There is clearly significant interference with Mrs Taylor's land interest due to the size and shape of the plot and it is surprising that no other size or shape plot could be taken which would constitute a much lesser inference whilst simultaneously providing appropriate access.</p>	<p>As set out in the Applicant's Written Statement of Oral Case CAH2 (document reference: 18.9, REP3-073), the Applicant's position is reflected in the Responses to Relevant Representations (document reference: 18.2, REP1-026 to REP1-032).</p> <p>The plot shape has been carefully drawn with the Applicant's team, including ecologists, to avoid hedgerow removal and make use of existing tracks and to allow sufficient circulation at the compound for construction vehicles.</p> <p>As indicated in its Responses to Relevant Representations (document reference: 18.2, REP1-026 to REP1-032) and in discussions with the landowner's agent, the intention is not to take exclusive possession of this plot and leave the centre shape unusable. It is accepted that this is not provided for in the draft DCO (document reference: 3.1B, REP2-010), nor would this be the case in any DCO in the absence of agreement, but the intention is that can be done through a voluntary agreement.</p> <p>The Applicant is actively trying to seek an agreement with the landowner to arrange a temporary licence over the land. Latest</p>

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	<p>9. In particular, the applicant's response says nothing about the possibility of using the main site or even any alternative land in the vicinity. Only vague comments about the land being 'closest and most suitable' are given.</p> <p>10. The main body of the site is large and the highways works including 'Work No. 10' will be delivered in the Phase A (ES Ch 3, table at page 3-29). There is, therefore, a large area of land remaining that could be used for construction compounds as it is not due to be developed until later on. Not using this land should be robustly justified. No such justification has been given.</p> <p>11. Even if the applicant was able to successfully argue that greater proximity to the traffic signals and junction works is necessary, there has been no consideration of alternatives within the immediate area. On obvious example is the broad verge in front of Sapcote Garden Centre off Hinckley Road. That land is already subject to proposed permanent acquisition powers in the draft DCO is identified as plot 125 on Land Plan sheet 7 (Doc APP-064). It is some 9 metres wide and 200m long. From Highways Works Plan Sheet 7 (Document APP-028), it can be seen that, much of it is not required for the junction works and could, quite reasonably, hold a construction compound (perhaps alongside land within the main body of the DCO site).</p> <p>12. There are clearly reasonable alternatives that would not interfere with Mrs Taylor's land and those alternatives have not been properly considered. The proposed temporary acquisition of plot 122 is simply a</p>	<p>terms have been issued by the Applicant following face to face conversations with the landowners representative. These terms are believed to be agreed in principle with lawyers to be instructed imminently.</p>

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	convenient option for the applicant. That does not demonstrate a compelling case in the public interest.	
3	<p>Scale of interference</p> <p>13. The Applicant wrongly assumes that there would be no 'clash' between its project and that of our clients.</p> <p>14. However, as with Parker Strategic Land's site to the southwest of M69 junction2, our clients are working towards a planning application being submitted towards the end of 2024 in line with the programme for the publication of the Council's Regulation 19 draft Local Plan. This should see a grant of planning permission in 2025 and implementation shortly thereafter. Even allowing for delays, our clients would intend to commence delivery on site in 2026.</p> <p>15. The dDCO and indicative phasing plan currently provides for the retention of Mrs Taylor's land until mid 2030, some four years after the consortium intend to commence development on their site to the west of Stoney Stanton. There is clearly a potential for interference and this is not justified by the information provided by the applicant to date.</p>	<p>The Applicant remains committed to resolving the Consortium's concerns regarding timing and is seeking to conclude a voluntary agreement which will ensure that the Consortium is not blocked from being able to use the land in the centre of Plot 122 for its own development proposals.</p>

Parker Strategic Land and Others

Response Number	Shoosmiths LLP on behalf of Parker Strategic Land and others	Applicant's Response
1	<p>Introduction</p> <ol style="list-style-type: none"> 1. Parker and the joint landowners by whom we are instructed own and control Plot 101 within Schedule 10 of the draft DCO which is listed as being subject to temporary possession powers under Article 32. The inclusion of this land is objected to by Parker and the landowners. 2. Parker Strategic Land and others' written representations are found at REP1-218. A similar case was put forward at CAH1 that: <ol style="list-style-type: none"> a. No compelling case – none of the formal documents set out a good reason for taking this site as opposed to justifying the project more generally. b. Alternative means exist to bring about the scheme using land within the main body of the application site. c. Lack of consideration of alternatives. 3. All three points remain following receipt of the Applicant's response document REP1-027. 4. Three points are made by the Applicant in response to our objection they are: 	<p>The Applicant notes these comments.</p>

Response Number	Shoosmiths LLP on behalf of Parker Strategic Land and others	Applicant's Response
	<p>a. That the justification is set out within the Statement of Reasons (REP1-005)</p> <p>b. That this location is justified because</p> <ul style="list-style-type: none"> i. Use of the main site would require interference with public use of the B4669 ii. It would not fit with current indicative phasing to use land in the main site. <p>c. Taking temporary possession would not be likely to interfere with the consortium's development plans for their land.</p> <p>5. None of these points are well made.</p>	
2	<p>Justification in general</p> <p>6. The SoR provides a very high level justification for the project as a whole. It says nothing specifically about plot 101. The only site-specific justification is now found within REP1-027</p>	<p>The Applicant notes these comments but confirms that more information has been provided in discussions with Parker and the joint landowners. The Applicant has followed the same approach in regard to the level of detail provided in the SoR as per other DCOs.</p>
3	<p>Justification for not using the main site</p> <p>7. The starting point is that the main body of the site is large and the phasing spans 10 years (ES Ch.3 Table 3.9) with highways works including work 9 being delivered within Phase A. there is therefore a large balance of land remaining which could be used for construction compounds as it is not due to be developed until later in the build.</p>	<p>As set out in the Applicant's Written Statement of Oral Case CAH2 (document reference: 18.9, REP3-073), the reasons for the suitability of Plot 101 for use as a temporary compound, are set out in the Statement of Reasons (document reference: 4.1C, REP2-016), namely a mix of engineering, program and reasons relating to the Construction and Design Management Regulations.</p>

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	<p>8. Not using this land is a choice which should be robustly justified given that this decision leads to an interference with private interests.</p> <p>9. Moreover, the interference is greater than assumed by the applicant – a matter returned to below. The justification is therefore required to be all the more compelling.</p> <p>10. First, in relation to the alleged impacts on the B4669 from using land in the main body of the site, Parker and the Landowners simply cannot see how this would occur. The main site sits directly to the north west of Junction 2 and has direct access via the proposed link and roundabout also due to form part of Phase A (see APP-050 phasing and works plan 1) without needing to utilise the B4669 to reach the proposed slip road to the south of J2.</p> <p>11. Second, in relation to phasing, it is not correct to state, as the applicant does that there is no “space” for a compound within the main body of the site due to the creation of development platforms. Only two platforms are due to be created in Phase A. The entire balance of the site remains. Further, it is noted that the Applicant’s indicative phasing places the first two units to be constructed immediately to the north of J2 and at the furthest possible point from the rail port which is said to</p>	<p>The Applicant is actively trying to seek an agreement with the landowner to arrange a permanent acquisition of Plot 101a & 103 and temporary licence over Plot 101. Latest terms have been issued by the Applicant following face to face conversations with the landowners representative. These terms are believed to be agreed in principle with lawyers to be instructed imminently.</p>

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	<p>justify the scheme and bring it within the NN NPS. The phasing is indicative and there is no reason at all why the Applicant cannot (and indeed should not arguably be required to) deliver units near to the rail port first, thus leaving land immediately adjacent to J2 for the required compound. It is this commercial decision by the applicant which in reality has led to the interference with private land interests outside the main body of the site.</p> <p>12. In short, a series of choices has led to the current phasing and resultant desire to place the compound on our clients' land. This is far from amounting to a compelling case.</p>	
4	<p>Scale of interference</p> <p>13. The Applicant wrongly assumes that there would be no 'clash' between its project and that of our clients. Together the dDCO and the indicative phasing proposed in the ES Ch.3 would see land draw down in years 0-2 and phase A delivered across years 3-5. Article 32 then only requires the applicant to return the land within one year following completion of the relevant works (here, Work No.9) – a total of a possible 6 years where our clients will be out of possession and ending in around mid 2030 at the upper extent.</p> <p>14. At present, our clients are working towards a planning application to be submitted towards the end of 2024/ start of 2025, in line with the programme for the</p>	<p>The Applicant is in active discussions to try to resolve Parker's concerns regarding timing.</p>

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	<p>publication of the Council's Regulation 19 draft Local Plan and proposed submission in March 2025. This should see a grant of planning permission in 2025 and implementation shortly thereafter. Even allowing for delays, our clients would intend to commence delivery on site in 2026/27 – some three to four years before the dDCO would see the return of their land.</p> <p>15. The dDCO as presently drafted therefore has the consequence of delaying a major employment site within the emerging local plan for a period of up to four years. This interference has an obvious impact which goes beyond the private interests of our clients and results in a wider economic effect on the district and its delivery of its local plan ambition. The large scale of effect is nowhere near justified by the scant reasoning provided by the applicant to date.</p> <p>16. At the hearing, the Applicant sought to argue that Parker's proposed development was in some way dependent upon the DCO being granted. Whilst the development may prove to be contingent upon the provision of new slip roads, the DCO is not the only mechanism for delivering those slip roads as there is a "without DCO" proposal for the junction improvements to be funded by strategic allocations in the emerging plan. Therefore, whilst the slip roads need to be delivered, the</p>	<p>The Applicant acknowledges that there may be another proposal for the delivery of the slip roads but notes that the local plan has not yet been adopted and so it cannot be said that this mechanism of delivery is certain.</p>

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	DCO does not and the point in relation to the extent of harm caused by the temporary land take remains.	

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5	<p>Introduction</p> <p>16. The consortium and Mrs Taylor by whom we are instructed own and control Plot 122 within Schedule 10 of the draft DCO which is listed as being subject to temporary possession powers under Article 32. The inclusion of this land is objected to by Mrs Taylor and the consortium.</p> <p>17. The consortium and Mrs Taylor's written representations are found at REP1-217. Their position, in respect of the proposed temporary possession powers, is that:</p> <ul style="list-style-type: none"> d. No compelling case has been made; e. Alternative means exist to bring about the scheme using land elsewhere; f. There is a lack of consideration of alternatives. <p>18. Three points are made by the Applicant in their response document REP1-027. They are:</p>	The Applicant notes these comments.

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	<p>d. That the justification is set out within the Statement of Reasons (REP1-005).</p> <p>e. That this location is also justified because Plot 122 is the 'closest and most suitable' location for the temporary use of land as a construction compound whilst the associated traffic signals and junction works are taking place.</p> <p>f. Taking temporary possession would not be likely to interfere with the consortium's development plans for their land.</p> <p>19. These points are not well made, for the following reasons:</p>	
6	<p>Justification in SoR</p> <p>20. The SoR says nothing specifically about plot 122. The only site-specific justification is now found within the applicant's response document REP1-027.</p>	<p>The Applicant notes these comments but confirms that more information has been provided in discussions with the Consortium and Mrs Taylor. The Applicant has followed the same approach in regard to the level of detail provided in the SoR as per other DCOs.</p>
7	<p>Justification in general</p> <p>21. However, even in document REP1-027, there is no analysis or explanation given for why approximately 1.5 acres of land is required for a construction compound only associated with relatively minor traffic signal and junction improvement works at the Hinckley Road / Stanton Lane</p>	<p>As set out in the Applicant's Written Statement of Oral Case CAH2 (document reference: 18.9, REP3-073), the Applicant's position is reflected in the Responses to Relevant Representations (document Reference: 18.2, REP1-026 to REP1-032).</p>

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	<p>junction. Without any such analysis or explanation, the proposed land take in plot 122 appears excessive.</p> <p>22. The applicant also states that the shape of plot 122 has been carefully drawn to minimise the impact on Mrs Taylors land. In particular, the 'donut' shape has been drawn to allow appropriate access in a way which avoids hedgerow removal and that exclusive possession of the access way will not be taken. However, Article 32 of the draft DCO does not refer to non-exclusive possession. Furthermore, the applicant accepts that the centre of the field would be 'isolated'.</p> <p>23. In light of this, it is hard to see how plot 122 is 'the most suitable' shape and location for such a compound. There is clearly significant interference with Mrs Taylor's land interest due to the size and shape of the plot and it is surprising that no other size or shape plot could be taken which would constitute a much lesser inference whist simultaneously providing appropriate access.</p> <p>24. In particular, the applicant's response says nothing about the possibility of using the main site or even any alterative land in the vicinity. Only vague comments about the land being 'closest and most suitable' are given.</p>	<p>The plot shape has been carefully drawn with the Applicant's team, including ecologists, to avoid hedgerow removal and make use of existing tracks and to allow sufficient circulation at the compound for construction vehicles.</p> <p>As indicated in its Responses to Relevant Representations (document reference: 18.2, REP1-026 to REP1-032) and in discussions with the landowner's agent, the intention is not to take exclusive possession of this plot and leave the centre shape unusable. It is accepted that this is not provided for in the draft DCO (document reference: 3.1B, REP2-010), nor would that be the case in any DCO in the absence of agreement, but the intention is that can be done through a voluntary agreement.</p> <p>The Applicant is actively trying to seek an agreement with the landowner to arrange a temporary licence over the land. Latest terms have been issued by the Applicant following face to face conversations with the landowners representative. These terms are believed to be agreed in principle with lawyers to be instructed imminently.</p>

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	<p>25. The main body of the site is large and the highways works including 'Work No. 10' will be delivered in the Phase A (ES Ch 3, table at page 3-29). There is, therefore, a large area of land remaining that could be used for construction compounds as it is not due to be developed until later on. Not using this land should be robustly justified. No such justification has been given.</p> <p>26. Even if the applicant was able to successfully argue that greater proximity to the traffic signals and junction works is necessary, there has been no consideration of alternatives within the immediate area. On obvious example is the broad verge in front of Sapcote Garden Centre off Hinckley Road. That land is already subject to proposed permanent acquisition powers in the draft DCO is identified as plot 125 on Land Plan sheet 7 (Doc APP-064). It is some 9 metres wide and 200m long. From Highways Works Plan Sheet 7 (Document APP-028), it can be seen that, much of it is not required for the junction works and could, quite reasonably, hold a construction compound (perhaps alongside land within the main body of the DCO site).</p> <p>27. There are clearly reasonable alternatives that would not interfere with Mrs Taylor's land and those alternatives have not been properly considered. The proposed temporary acquisition of plot 122 is simply a convenient option for the</p>	

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	applicant. That does not demonstrate a compelling case in the public interest.	
8	<p>Scale of interference</p> <p>28. The Applicant wrongly assumes that there would be no 'clash' between its project and that of our clients.</p> <p>29. However, as with Parker Strategic Land's site to the southwest of M69 junction2, our clients are working towards a planning application being submitted towards the end of 2024 in line with the programme for the publication of the Council's Regulation 19 draft Local Plan. This should see a grant of planning permission in 2025 and implementation shortly thereafter. Even allowing for delays, our clients would intend to commence delivery on site in 2026.</p> <p>30. The dDCO and indicative phasing plan currently provides for the retention of Mrs Taylor's land until mid 2030, some four years after the consortium intend to commence development on their site to the west of Stoney Stanton. There is clearly a potential for interference and this is not justified by the information provided by the applicant to date.</p>	<p>The Applicant does not agree that there would be a 'clash' between the proposed developments but remains committed to resolving the Consortium's concerns regarding timing and is seeking to conclude a voluntary agreement which will ensure that the Consortium is not blocked from being able to use the land in the centre of Plot 122 for its own development proposals.</p>