

HINCKLEY NATIONAL RAIL FREIGHT INTERCHANGE

*Blaby District Council (IP ref.
20040018) Deadline 5
submission (ref. TR05007).*
Deadline 5 – February 9, 2024

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- Appendix 4 Leicestershire Highway Design Guide (January 2022) Leicestershire County Council

The Examining Authority’s written questions and requests for information (ExQ2)

1. This document outlines Blaby District Council’s (“BDC”) response to the ExAs Written Questions. Where alternative text to the draft Development Consent Order (dDCO) and its Requirements is proposed the amendments are detailed in bold red text.

2.0 General and Cross-Cutting Questions		
Question Reference	Question	Response
2.0.1.	<p>Revised National Planning Policy Framework</p> <p>In December 2023 a revised version of the National Planning Policy Framework was published. All Interested Parties are given the opportunity to make representations on how any changes affect consideration of the Proposed Development.</p>	<p>The revised NPPF (December 2023) includes several changes that affect consideration of the proposed HNRFI relating to beautiful design and climate change. These are set out below with key changes highlighted in bold.</p> <p>BDC’s strong view is that the scheme does not represent good design. BDC’s joint response with HBBC on the Applicant’s response to our joint submission with HBBC on design matters at Deadline 1 details the failings of design matters in the Applicant’s scheme.</p> <p>It is noted that the Applicant has submitted a rebuttal to BDC’s joint response with HBBC on design at Deadline 4 alongside and amended Design Code and Design and Access Statement. BDC jointly with HBBC have prepared a response to these three documents which forms part of the Councils Deadline 5 response.</p> <p>Several paragraphs of the NPPF have had references to ‘beautiful design’ and or/ ‘beauty’ inserted highlighting the Government’s intentions in terms of design:</p> <p>Para 20 - Strategic policies should set out an overall strategy for the pattern, scale and design quality of places (to ensure outcomes support beauty and placemaking), and make sufficient provision...</p> <p>Para 88 - Planning policies and decisions should enable:</p>

		<p>a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings;</p> <p>Para 96 - Planning policies and decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which:</p> <p>a) promote social interaction,;</p> <p>b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of beautiful, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas;</p> <p>Para 128 - Planning policies and decisions should support development that makes efficient use of land, taking into account:</p> <p>a) the identified need</p> <p>e) the importance of securing well-designed and beautiful, attractive and healthy places.</p> <p>The addition of the above to the NPPF highlights the Government’s commitment to beautiful design in new development and strengthens BDC’s argument for the need for well-designed and attractive development.</p> <p>BDC’s joint response with HBBC, submitted as part of BDC’s Deadline 5 submissions to the Applicant’s submitted rebuttal on design matters, reiterates the importance that the HNRFI should have a clear Design Code and Landscape Strategy but unfortunately at present they only provide high level information.</p> <p>Paragraph 140 highlights the importance of clear and accurate plans and drawings:</p> <p>Para 140 - Local planning authorities should ensure that relevant planning conditions refer to clear and accurate plans and drawings which provide visual clarity about the design of the development, and are</p>
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		<p>clear about the approved use of materials where appropriate. This will provide greater certainty for those implementing the planning permission on how to comply with the permission and a clearer basis for local planning authorities to identify breaches of planning control. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).</p> <p>The addition of the above to the NPPF highlights the Government's commitment to ensure that plans and documents submitted for applications are clear and accurate. Therefore, this addition strengthens the Councils' position that the Design Code and plans should be strengthened to illustrate how the various strands of the application fit together with its functional requirements and together achieve a well-designed development that is beautiful.</p>
2.0.2.	<p>Submission of documents A number of interested parties have provided hyperlinks to other documents outside their submissions in response to questions raised. Annex H of the Rule 6 letter [PD-005] and PINS Advice Note 8.4 make clear that submissions must not include hyperlinks. This is because the Examining Authority, Interested Parties and the Secretary of State cannot rely on documents /evidence that the Inspectorate cannot directly control in respect of availability and content (including</p>	<p>Blaby District Council have examined their previously submitted documents and it has noted some hyperlinks within the footnotes of their deadline 4 ExA Written Questions responses. These documents have been included in full at Appendices 1-4 and are as follows;</p> <ul style="list-style-type: none"> - Warehousing and Logistics in Leicester and Leicestershire: Managing growth and change Leicester and Leicestershire Authorities (amended 2022), attached at Appendix 1 - West Midlands Strategic Employment Sites Study (2021), attached at Appendix 2 - Office of National Statistics - Internet sales as a percentage of total retail sales (ratio) (%) (December 2023), attached at Appendix 3 - Leicestershire Highway Design Guide (January 2022) Leicestershire County Council, attached at Appendix 4

	<p>from a UK General Data Protection Regulation perspective).</p> <p>All parties are asked to review their submissions and, where necessary, provide copies of the information sought, indicating the relevant document(s) (using the Examination Library reference) and the location within that document to allow accurate identification.</p>	
2.0.4	<p>Planning Obligation</p> <p>a) Could the Applicant please ensure that the full text of the draft Obligation (that is including the Appendices) is provided.</p> <p>b) Could the Local Authorities please comment on any draft Obligations that they seen, but have not as yet been submitted into the Examination, as well as those they have been submitted.</p>	<p>BDC have reviewed both the latest Heads of Terms (HoT) for the s. 106 Agreement that was submitted at Deadline 4 [REP4-092] and the most recent version of the draft s. 106 agreement that was sent to BDC on 8 February 2024. Detailed is BDC's position on the obligations for BDC.</p> <p>With regards to the obligation included in both the HoT and the draft s.106 agreement, BDC has agreed to the principles of the Skills and Training Plan outlined in Schedule 1. BDC sought confirmation from the Applicant, that given Schedule 1 of s.106 will require the Applicant to implement and comply with the Skills and Training Plan in accordance with the timeframes set out in the Skills and Training Plan that the obligations regarding the Skills and Training Plan will have effect prior to the carrying out of a material operation as per clause 3.1 of the draft s.106 agreement that provides that the Agreement will not come into effect until the carrying out of a material operation save where specifically provided to the contrary obligations contained in Schedules 1 and 2. BDC consider that as the Skills and Training Plan provides obligations on the parties to carry out actions in advance of the "Enabling Phase", that the obligation to implement and comply with the Skills and Training Plan is an obligation which comes into effect prior to carrying out of material operations. BDC have since welcomed the amendment to the section 106 proposed by the Applicant which specifies that the obligation to</p>

	<p>implement the skills and training plan will have effect from the date the DCO is granted.</p> <p>With regards to the drafting of the Skills and Training Plan itself, BDC considered that further clarity was required with regard to the use of defined terms so to provide further certainty as to timing of implementation so as to not frustrate the implementation of the Skills and Training Plan. In particular BDC consider that the term Construction Phase should be defined with recourse to the definition of “commencement of construction works” as provided in Schedule 2 of the dDCO. Further clarity is sought from the Applicant as to the whether the first application to discharge a requirement under the dDCO would also precede the defined Enabling Phase as this is the trigger point for the establishment of the Work and Skills Group which will oversee the implementation of the Work and Skills Training Plan. The Applicant has since amended the draft section 106 to address these concerns.</p> <p>BDC welcomes the provision of an obligation to provide a Skills and Training Plan Monitoring Fee and agrees to the principle of the fee being provided, however, BDC still seek to discuss further the amount proposed by the Applicant. Furthermore and without prejudice to BDC’s submissions on the HGV Route Management Plan and Strategy and BDC’s proposed enforcement role that were made by BDC at Issue Specific Hearing 6 as outlined in the Summary of Oral Submissions at ISH6, BDC seek for a monetary contribution in the section 106 agreement to BDC’s enforcement role under the HGV Route Management Plan and Strategy. BDC consider that a monitoring and enforcement role will invoke a further burden on BDC from a resourcing perspective. BDC understand that the Applicant is currently reviewing the HGV Route Management Plan and Strategy which will involve a review of BDC’s enforcement role.</p> <p>Furthermore, BDC also sought for a monetary contribution to the monitoring of the s.106 agreement as a whole, inclusive of the bespoke monitoring/enforcement fees in relation to the Skills and Training Plan and</p>
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		<p>HGV Route Management Strategy and Plan. In addition to the bespoke monitoring which will be undertaken by the Work and Skills Group and internal enforcement team in relation to the HGV Route Management Strategy and Plan, like other developments in the District BDC will still be required to undertake monitoring of the implementation of section 106 agreement as a whole. BDC therefore seek for the payment of a monitoring fee for the section 106. This would be a flat fee of £250 paid prior to the commencement of development in accordance with paragraph 4.4 of BDC's Developer Contributions Supplementary Planning Document adopted in 2013. This has been agreed between the Applicant and BDC.</p>
<p>2.5. Draft Development Consent Order [REP4-027] & Explanatory Memorandum [REP4-029]</p>		
Question Reference	Question	Response
<p>2.5.1.</p>	<p>Schedule 2, Requirement 10 – Provision of Rail Freight Terminal</p> <p>The Applicant proposes that the construction and occupation of up to 105,000 square metres (m2) of logistics floorspace prior to the Rail Port (Phase 1) becoming operational as set out within the submitted Planning Statement (Document reference: 7.1 paragraphs 3.113 –3.117, paragraphs 3.124 – 3.126) and included within Requirement 10.</p> <p>The ExA notes the provision of paragraph 4.86 of the draft NPSNN which states: the Secretary of State recognises that applicants</p>	<p>As outlined at paragraph 3.5 of BDC's Written Representation [Rep1-050], BDC has acknowledged the policy at paragraph 4.86 of the draft National Policy Statement for National Networks (NPSNN) as well as the existing precedents for the approach proposed by the Applicant with regards to the occupation of warehousing prior to the final delivery and commissioning of the rail connection.</p> <p>BDC maintains it's position outlined at paragraphs 3.1 – 3.6 of its Written Representation [Rep1-050], in light of the likely significant impacts on the highway network and related highways impacts that the operation of rail from the outset is necessary and reasonable.</p> <p>Without prejudice to this position, were the Secretary of Stated be minded to allow the occupation of some warehousing before the final delivery and commissioning of connections to the rail network, BDC considers that additional transparency over how the rail terminal is used and the level of rail freight uptake is required. BDC consider that in light of the likely significant impacts on the highways it is imperative that there is transparency in how the</p>

	<p>may need to deliver warehousing ahead of the final delivery and commissioning of connections to the rail network coming forward. In these circumstances the Secretary of State will want to ensure that operational rail connections are brought forward in a timely manner, which may include using requirements that secure operational rail connections after a specified period and/or before a development threshold is reached.</p> <p>This being the case and accepting precedents from other similar proposals, does BDC agree the requirement as proposed by The Applicant is acceptable?</p>	<p>scheme is being used and assurance that the scheme will deliver on the modal shift for freight it proposes to deliver.</p> <p>In this respect, BDC submit Requirement 10 should be amended (amendments shown in bold and red) to read as follows:</p> <p><i>10. (1) No more than 105,000 square metres of warehouse (including ancillary office) floorspace to be provided as part of the authorise development may be occupied until the rail freight terminal which is capable of handling a minimum of four 775m trains per day and any associated infrastructure has been completed.</i></p> <ol style="list-style-type: none"> 2. <i>The undertaker must notify the local planning authority of the date of the first occupation of more than 105,000 square metres of warehousing within 28 days of such occupations occurring.</i> 3. <i>Following completion of the rail terminal works the undertaker must retain, manage and keep the rail terminal works available for use.</i> 4. <i>The undertaker must appoint a rail freight co-ordinator prior to the completion of the rail terminal works who must report to the local planning authority no less than once a quarter on the operation of the rail terminal when open including—</i> <ol style="list-style-type: none"> <i>a. the appointment of a rail operator to operate the rail terminal;</i> <i>b. the amount of rail freight usage of the rail terminal;</i> <i>c. the number of trains using the rail terminal;</i> <i>d. the warehousing receiving or sending goods through the rail terminal; and</i> <i>e. the amount of goods being received or sent through the rail terminal by freight</i>
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2.5.3.	<p>Schedule 2, Requirement 19 - Green Space</p> <p>In response to concerns over the provision of green space, the Applicant at D4 has submitted a Landscape Ecological Management Plan (document 17.2A) and green space provision will be secured by Requirement 19. Can BDC and HBBC confirm they are happy with the approach set out and the Requirement?</p>	<p>BDC is generally content with the drafting of Requirement 19, as set out in the latest dDCO [REP4-028] which has been agreed via the Statement of Common Ground. However, whilst the outline Landscape Ecological Management Plan (LEMP) [REP4-112] describes the measures by which provision for habitat creation and enhancement will be made, BDC still have concerns that there is not presently a clear distinction between habitat creation enhancement for Biodiversity Net Gain ('BNG') and habitat creation/enhancement for the provision of public open space. Currently the LEMP speaks to habitat creation/enhancement in the round with little consideration of the specific purpose for which such measures are undertaken. To avoid the risk of stacking (double counting), BDC consider that the principles of the LEMP should clearly distinguish between measures undertaken for the purpose of biodiversity net gain and public open space provision.</p> <p>Express consideration of BNG particularly surrounding the minimum 30 year requirement needs to be included. The work schedule needs to include BNG</p>

		<p>management and monitoring prescriptions in line with the conditions criteria for each individual habitat, including associated BNG specific reporting that reflects extreme weather events that impact the ability to attain the proposed final BNG score.</p>
<p>2.5.4</p>	<p>Schedule 2, Requirement 21 – Landscape Scheme The Applicant’s response to D3 submissions by BDC indicates that Requirement 21 is to be revised to meet BDC’s concerns. Could the parties indicate if agreement has been reached, and if not both parties should provide their alternative draftings, explaining why their draft is to be preferred.</p>	<p>BDC can confirm that it is content with the wording for Requirement 21 as set out in the Draft Development Consent Order submitted by the Applicant at Deadline 4 [REP4-028]; this is included as a matter agreed within the Landscape Statement of Common Ground (albeit referred to therein by its previous number – i.e. Requirement 22).</p> <p>21.(1) No phase is to commence until a written landscaping scheme for that phase (including any strategic landscaping included within that phase) in accordance with the illustrative landscape strategy has been submitted to and approved in writing by the relevant planning authority.</p> <p>(2) The written landscaping scheme must be in accordance with the parameters plans and must include details of all proposed soft landscaping works, including—</p> <ul style="list-style-type: none"> (a) details of any trees and hedgerows to be removed; (b) location, number, species, size, layout, method of trees support, plant protection measures and planting density of any proposed planting; (c) cultivation, importation of materials and other operations to ensure plant establishment; (d) a programme for the implementation of the works; and (e) a landscape management plan setting out for a period of 20 years from completion of that phase the arrangements for future maintenance including methods of funding and future monitoring, review and the maintenance of new trees, shrub, hedgerows, woodlands and grassed areas and retained trees, shrub, hedgerows, woodlands and grassed areas.

		<p>(3) Any shrub or tree planted as part of the approved plan that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted unless otherwise agreed with the relevant planning authority.</p> <p>(4) The detailed written landscape scheme for each phase must be implemented in accordance with the approved scheme for that phase</p>
2.5.6	<p>Schedule 2, Part 2 – Fees The Applicant has finalised its drafting of these provisions. Could the Local Authorities indicate whether they are content with this. If not, could they please provide alternative drafting, explaining why they consider this should be preferred.</p>	<p>BDC have been liaising with HBBC on this matter and both Councils are not currently content with the drafting of the fees provision. The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 do not expressly apply to applications for the approval of matters under Development Consent Order (DCO) requirements. It is therefore unclear exactly how fees will be calculated when applying those regulations. This creates significant scope for disagreement.</p> <p>BDC has asked the Applicant what the total fee figure would be and under which phases it would be provided (due to concerns that resourcing demands on BDC will not align with the receipt of application fees, particularly before the submission of requirements relating to warehousing floorspace) and for clarity on who receives the fee, mindful that some of the site is within HBBC but that all the proposed building floorspace lies within BDC. Based on the information currently available, BDC expects that it will be necessary, in addition to the operation of the 2012 Fee Regulations referenced above, to agree a post DCO decision Planning Performance Agreement with the Applicant (in the event the application is approved) to ensure that BDC’s costs of discharging requirements is met in full.</p> <p>Overall, BDC considers that further discussion with the Applicant around the detail and practical implications of their current drafting is needed.</p>

		<p>Notwithstanding this, to provide further clarity on the proposed drafting, BDC proposes the following amendment which follows the approach taken in The Northampton Gateway Rail Freight Interchange Order 2019:</p> <p><i>5. (1) Where an application is made to the discharging authority for consent, agreement or approval in respect of a requirement, other than where the parties have agreed otherwise, the fee that would have been payable had the fee been determined under the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(b), as though the application were a reserved matter application, is to be paid to that authority.</i></p>
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Comments on Deadline 4 submissions

This document outlines Blaby District Council’s (“BDC”) response to documents submitted by Tritax Symmetry (Hinckley) Limited (“the Applicant”) at Deadline 4.

Health		
Document Reference	Document Name	BDC comments
<p>6.2.7.1C REP4-050</p>	<p>Health and Equalities Briefing Note</p>	<p>BDC are pleased to see a health appraisal matrix being included within the summary. BDC agree on the approach of the organisation of themes along with how these themes will be impacted during the construction and operational phases. The health conclusion is also appropriate.</p> <p>Furthermore, the equalities assessment links together the impact theme with the sensitive protected characteristics which we would expect to see. The assessment of effects and conclusions are also standard.</p>
<p>18.13 REP4-120</p>	<p>Applicant's response to deadline 3 submissions BDC Part 1</p>	<p>BDC notes there are a number of responses to different topic areas within the Applicant’s response to Deadline 3 submission documents. BDC make the following comments in respect of Health matters;</p> <p>Point 51 – BDC has no further comments, as the updated Health and Equality Briefing Note (document reference: 6.2.7.1C) includes a reference to a Health Impact Assessment.</p> <p>Point 53 – BDC request further clarification on how good quality open space will be achieved. The Landscape Ecological Management Plan document describes habitat creation/enhancement and does not provide an understanding of how the open spaces will be accessed by the public and how they will be well maintained.</p>

		<p>Point 54 – BDC has no further comments. The Applicant has set out a reasoned justification and the referenced document provided clarification of the nature of the replacement bridleways.</p> <p>Point 55 – BDC notes that The Framework Travel Plan sets an objective to encourage uptake of active travel with gains for health which is supported. The Council has no further comments.</p> <p>Point 59 – In general, points of discussion around the Leicestershire 2022-2032 Joint Health and Wellbeing Strategy (JHWS) have been agreed in the latest Statement of Common Ground (SOCG). However, at 7.1. (Improved Mental Health) of the Applicant’s response to BDC’s deadline 3 submissions, consideration is only given to the provision of net additional long-term employment and the working environment for employees. It does not consider the impacts associated with noise, vibration and landscape and visual effects which are all known to affect mental health. This is particularly pertinent given the recreational use of Burbage Common and Woods and other Public Rights of Way in close proximity to the Proposed Development.</p> <p>Point 62 – As set out in the latest, SoCG, BDC still uphold that the Health and Equalities Appendix has failed to consider the travelling communities in proximity to the site. It is noted that a Written Statement of Oral Case ISH3 has been provided which confirms the points the Applicant made at the meeting, however, this document does not consider the socio-economic impacts on the travelling communities.</p> <p>Point 64 – BDC still considers that the analysis of the quality of open space remains unclear, thus making it difficult to assess the impacts of the Proposed Development of users of those nearby open spaces.</p>
<h2>Construction Environmental Management Plan</h2>		
<p>Document Reference</p>	<p>Document Name</p>	<p>BDC comments</p>

<p>17.1A REP4-109</p>	<p>Construction Environmental Management Plan (CEMP)</p>	<p>Lighting – Whilst the CEMP has been revised for lighting, these revisions include the changes that BDC requested. As such, BDC are satisfied with the Lighting within the CEMP and have no further comments to make on this topic.</p> <p>Ecology – BDC raise the following points in respect of the updated Ecology section of the CEMP that are still unsatisfactory and need to be addressed:</p> <ul style="list-style-type: none"> - The Applicant should ensure the bat protection is in line with the updated and latest Institute of Lighting Professionals (ILP) guidance note. - The Applicant should outline the sensitive clearance methodology for Amphibian and Reptiles to ensure adherence with standard and accepted guidance/methodology. - Whilst BDC acknowledge that work will be ceased on discovery of Great Crested Newts, the Applicant should provide an outline methodology that details specific measures that will be undertaken in this eventuality. - Where water bodies have dual benefit for ecology and Sustainable Urban Drainage the Applicant should outline pollution control measures that must be suitable to ensure no adverse impact to biodiversity/ecological receptors. <p>Working hours - BDC have now agreed the working hours and these have been updated within the dDCO submitted at Deadline 4 [REP4-027] and now align with the CEMP [REP4-110].</p> <p>Contaminated land – BDC has no comments to make on contaminated land.</p>
Ecology		
Document Reference	Document Name	BDC comments
<p>18.7.5 REP3-060</p>	<p>Chapter 12: Ecology and Biodiversity</p>	<p>BDC notes that within the Ecology and Biodiversity Chapter of the Environmental Statement (ES) there has been updated wording around</p>

		<p>designated sites and Biodiversity Net Gain (BNG). In addition, there has been updated wording regarding operational buffers, BDC would consider the updated wording to the operational buffers vague and would require details on species mixes and age classes of the proposed planting.</p>
<p>Appendix 12.1 REP4-065</p>	<p>Ecology baseline</p>	<p>BDC notes that within the Ecology baseline appendix the best practice guidance has been updated. Further text has been included surrounding bird assemblages and their utilisation of the site. BDC have no further comments to make on this.</p>
<p>Appendix 12.2 REP4-067</p>	<p>Biodiversity Impact Assessment Calculations</p>	<p>BDC notes that the pre detailed assessment precautionary methodology has been provided. Notwithstanding this, BDC would want to see a full BNG assessment produced for the entirety of the site for all linear, area and watercourse habitats.</p> <p>Should the Applicant produce a detailed BNG assessment at a later date, this should be produced using the Statutory Metric rather than Metric 3.1. No calculations have been provided as part of the update document.</p>
<p>17.2A REP4-111</p>	<p>Outline Landscape and Ecology Management Plan (LEMP)</p>	<p>BDC notes that there has been updated text added to the Landscape and Ecology Management Plan. The updated text states that <i>“the actions described in this document promote the stewardship of the land from a public and private amenity perspective as well as ensuring the maximum biodiversity credits are achieved”</i> – BDC would want to see this separated as much as possible and for the public and private amenity areas. Without this separation the post development BNG condition will have to be set to “poor” to account for heavy footfall/dog fouling etc.</p> <p>BDC also notes there has been an update to species mixes and methodology for implementation. Upon first inspection, the details included are an improvement on the previous version of the document. However, the Applicant should be reminded that if they are to use the Statutory Metric in future, the LEMP will need to be replaced by a Habitat Management and Monitoring Plan (HMMP).</p>

<p>18.13 REP4-120</p>	<p>Applicant's response to deadline 3 submissions BDC Part 1</p>	<p>BDC notes there are a number of responses to different topic areas within the Applicant's response to Deadline 3 submission documents. However, BDC make the following comments in respect of Ecology matters;</p> <p>Point 14 – The Applicant has accounted for temporary habitat losses. The Applicant does not need to account for habitat loss where there are temporary impacts to a habitat and the area can be restored to both:</p> <ul style="list-style-type: none"> • baseline habitat type within two years of the initial impact; and • baseline condition within two years of the initial impact <p>It is possible to enter these habitats as 'enhanced' within the BNG Metric if there is the ability to enhance the habitat above its baseline type and condition. If it is entered as enhanced, a 1 or 2 year delay should be applied in starting habitat creation or enhancement. Accounting for temporary losses cannot be used where policies or permissions require that a specific baseline is applied.</p> <p>Point 21 – The Applicant has not provided the River Condition Assessment for full review which should be provided for proper scrutiny and to ensure that the HNRFI complies with Requirement 29 of the dDCO.</p> <p>Point 42 – The Applicant's comments are noted, however, the wording has not been included within Requirement 19 as stated. Additional wording has been suggested and provided. This wording has been included within BDC's response to the ExA's Written Questions at Deadline 5.</p>
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Landscape

Document Reference	Document Name	BDC comments
<p>6.1.11B REP4-041</p>	<p>Chapter 11: Landscape and Visual Effects</p>	<p>BDC note there have been a number of changes to the Landscape and Visual Effects Chapter 11 of the ES.</p>

		<p>The Applicant has added an assessment for National Character Area 94, which was requested by the Examining Authority in their Written Questions ExQ1. This seems reasonable and BDC have no further comments to make on this.</p> <p>The Applicant has updated the sensitivity and overall levels of effects reported for some visual receptors at night, this is in response to the point BDC raised at Issue Specific Hearing 3 (ISH3) and within the follow up written material for Deadline 3. BDC can confirm that these changes to the overall levels of effects reported for visual receptors at night aligns with matters agreed and not agreed within the latest SoCG.</p>
6.3.11.12A REP4-076	Updated night-time photomontages	BDC note there has been a change to viewpoint 12 which now appears to show the proposed southbound-slip road at M69 Junction 2. BDC has no further comments to make on these photomontages with respect to Landscape.
18.13 REP4-120	Applicant's response to deadline 3 submissions [Part 1 - BDC]	BDC has no further comments to make on this document in respect of Landscape however, BDC has made additional comments in the next section of this table on the Applicant's response to HBBC deadline 3 submissions which includes matters that impact on BDC.
18.13 REP4-121	Applicant's response to deadline 3 submissions [Part 2 - HBBC]	<p>BDC and HBBC have jointly instructed Landscape consultants and therefore have raised the same concerns throughout the examination. BDC notes that the below matters have been raised within the HBBC response document but not the BDC one. As such, BDC would wish to make the following comments in respect of Landscape matters;</p> <p>Point 4 – suggests that <i>“the extent of effects on views from Elmesthorpe and surrounding villages is now largely agreed between the parties within the SoCG”</i>. These are included as matters Not Agreed within the SoCG;</p> <p>Point 5 – states that <i>“this is agreed noting however that planting does serve to screen and filter the majority of the development”</i>. BDC do not agree that the</p>

		<p>planting screens the majority of the development - the photomontages show that large portions of the proposed buildings will remain visible above vegetation in a number of viewpoints, e.g. PVP7, PVP9, PVP17 and PVP20;</p> <p>Point 6 – states that Applicant disagrees but provides no further detail other than to cross-refer to the assessment tables within the LVIA; our deadline 3 comment, that the extent of visual effects is larger than just the viewpoints selected, still stands.</p>
Planning		
Document Reference	Document Name	BDC comments
<p>7.1B REP4-086</p>	<p>Planning Statement</p>	<p>BDC note there have been a number of changes to the Planning Statement.</p> <p>Paragraphs 3.255 and 9.11/9.13 appear to be contradictory. Paragraph 3.255 makes generalised comments about the site being adjacent to a nearby urban settlement and suggest that this means there will be access to sustainable travel modes because it is an urban area rather than giving any specific details. BDC considers this is an inaccurate representation of the site and immediate locality. Paragraphs 9.11/9.13 indicate that opportunities to maximise sustainable transport solutions will not be the same as might be available with an existing urban area which suggests more limited opportunities. Both refer to paragraph 105 of the NPPF. The Applicant should provide clarification on this.</p> <p>Paragraphs 5.7 – 5.10 refers to BDC’s Core Strategy Policy CS12 and states that "Policy CS12 does not require the mitigation of any adverse impacts". Policy CS12 should be read in conjunction with Policy CS11, provided at Appendix 1 of BDC’s deadline 4 submissions [REP4-165]. Policy CS11 states that “New developments must be supported by the required physical, social and environmental infrastructure at the appropriate time” and Policy CS12 sets out how this will be secured with planning obligations and developer</p>

		<p>contributions. Given the remaining concerns, particularly in respect of highways impacts, BDC considers that it is likely there will be residual impacts that would warrant further obligations. Therefore, BDC considers that the Proposed Development will be in conflict with Policies CS11 and CS12 whilst at the same time acknowledging that, as set out by the Applicant in 5.10 of the Planning Statement, “some adverse impacts will remain which are to be weighed in the balance with the merits of HNRFI”.</p> <p>BDC notes the inclusion of point 1 under ‘Blaby District Council’ on page 97 which sets out that the application has given due consideration to the Development Plan documents. This has not been agreed within the latest SoCG submitted at Deadline 4 [REP4-134].</p>
Lighting		
Document Reference	Document Name	BDC comments
6.3.11.12A REP4-076	Updated night-time photomontages	BDC note there has been a change to viewpoint 12 which now appears to show the proposed southbound-slip road at M69 Junction 2. BDC has no further comments to make on these photomontages with respect to Lighting.

Landscape Design

It is important to state that this document is in direct response to the deadline 4 changes, amendments and comments received from the applicant. Unless superseded through this document the points within the Landscape Design Review previously carried out by LUC still stand and should be taken into consideration to give a complete picture of the scheme and landscape design in the eyes of national and local policy.

Executive Summary

LUC were appointed by Blaby District Council (BDC) and Hinckley and Bosworth Borough Council (HBBC) in July 2023 to undertake a review of the Landscape Design for the Hinckley National Rail Freight Interchange (HNRFI) Nationally Significant Infrastructure Project (NSIP). Fundamentally the purpose of the review is to establish if the applicant's scheme can be deemed as 'good design' in relation to the national and local planning policy it will be assessed against.

Following review of the further updated Design Code and clarifications relating to the design from the applicant, LUC has concluded that the findings of their original assessment still stand. In their view the proposals fail to deliver an acceptable scheme in landscape design terms when measured against national and local policy and in particular the criteria for good design within the National Design Guide. While there have been improvements to the Design Code in particular, this has primarily involved providing additional detail on the current proposal, rather than addressing the fundamental points on landscape character raised in the original Landscape Design Review. It is noted in a number of places through the Design Code, a reference to future detailed design approvals to resolve design issues has been added. While this may be acceptable for specific plot-by-plot details (building materials, SuDS features, etc.), this would further emphasise the need for a strong Design Code and Landscape Strategy to offer acceptable options and guide the future development applications. This level of detail is currently missing from the Design Code.

Table 1.1: LUC comment on Applicant response to BDC joint response with HBBC on design matters of the HNRFI DCO Examination (ref. TR05007) issued at Deadline 4 (REP4-133)

Document Reference	Summary of Representation	Applicant's statement	BDC Response
Page 2, section 1	General Design Approach	By necessity for a scheme of this nature, no one discipline has led the design approach per se. A number of different factors have been key at different stages including rail requirements, operational requirements and landscape and ecological factors. A practical approach has been taken that goes beyond the boundaries of the site, recognising that the best practicable environmental option	The updated Design Code does provide additional information on typical landscape proposals within the 'pink' zone indicated on the parameter plan. While it is appreciated that the design needs to be considered in the context of the SRFI scale and practical

Document Reference	Summary of Representation	Applicant's statement	BDC Response
		<p>at a district or national level is to maximise the development potential of this site and avoid the potential need for further greenfield site use beyond the well contained boundaries of the current DCO. Therefore, while the traditional aspects of a 'landscape' led approach on a smaller scale mixed use development' are not central to this design, a different set of landscape benefits have been considered and taken into account including creation of 22ha of publicly accessible green space and a well contained scheme which minimises its impact on the wider landscape for the scale of logistics benefits it can deliver. Moreover, it should be noted that green and blue infrastructure account for 28% of the Main HNRFI and A47 Link Corridor area which, at over a quarter of the total area, demonstrates the extent to which landscape and ecology have been a central part of the design development process. Also of note, whilst the parameter plan shows a central development area without green space to avoid creating additional constraints, a significant part of the area will constitute green and blue infrastructure with attenuation basins, structural planting, amenity areas, tree lined streets and green corridors all forming a part of the 'pink' zone'. As many landscape and ecological features have been retained as is possible within the constraints of delivering an SNRFI, to defined parameters within a defined area whilst ensuring the necessary flexibility to ensure the development meets the needs of future occupiers. This is a clear approach which has remained constant throughout the application process. The design needs to be considered in the context of an SRFI and what is realistic for a development of that scale. There is not an option to deliver a smaller scale business park or mixed-use scheme which can readily incorporate most key landscape features and respond to local character in terms of scale.</p>	<p>requirements, a design code should set out the rules that future plot development proposals should adhere to and can be assessed against.</p> <p>The current Design Code does not provide the expected level of detail to do this.</p>
<p>Pages 3 & 4, section 2</p>	<p>Loss of existing landscape features/ consideration of landscape character</p>	<p>The local authorities are focussing on the features that are to be removed within the main development site but it must be noted that the many landscape and ecological features within the DCO boundary are to be retained. For example, of the 872 arboricultural features (individual trees, groups of trees, woodlands and hedgerows) surveyed, 312 are to be lost or partially lost. However, this leaves the majority – 540 features retained within the DCO boundary. As a result of the central nature of the features to be lost, a misconception has developed that the applicant has not respected the existing vegetation and features on site. That is not the case. Whilst the nature of the scheme does require the loss of more features than other types of development, the proposals have retained as many of the existing features as possible. Further, the proposals respect existing vegetation patterns in so far as they replicate the existing vegetation within the local area. For example, wet woodland and grassland alongside stream courses to respect the existing character in lower lying areas within Elmesthorpe Floodplain Landscape Character Area; woodland copses, scrub and meadow grassland to reflect the vegetation in the Country Park; and copses, ponds and hedgerows which are characteristic of the broader countryside of the Aston Flamville Wooded Farmland LCA and Stoney Stanton Rolling Farmland LCA. A summary of proposals that accord with the Landscape Character Area Opportunities and Guidelines is contained below:</p> <ul style="list-style-type: none"> • Provision of 22ha of new accessible green space; 	<p>A clear landscape strategy would help to identify and quantify both landscape elements that require removal and the proposed additions. While the updated Design Code does provide some additional high-level information on typical landscape additions, this is not demonstrated in a structured manner that could be described as a true landscape strategy.</p> <p>This should include setting out how the green and blue infrastructure define the development plots along the key movement routes, as shown in principle on the illustrative landscape plan and accompanying section and plan (Fig 18) showing typical details to internal distributor roads.</p>

Document Reference	Summary of Representation	Applicant's statement	BDC Response
		<ul style="list-style-type: none"> • New hedge planting which will be managed with traditional 'Midlands-style' hedge laying to improve structure and biodiversity; • Planting trees of appropriate size and species within open ground and hedgerows with opportunity to grow large spreading canopies and be the veteran trees of the future; • Planting wet woodlands in lower lying ground to extend this local habitat type; • Establishing a SuDs scheme to manage run-off and any pollutants from the development; • Establishing new areas of meadow grassland; and • Establishing new areas of woodland. 	
Page 4, section 3	Detailed Design Matters	The local authority is looking for more detail and 'certainty' on a number of design matters. As noted above, this will be delivered at the requirements stage but in the meantime, the applicant is conscious that some of the detail that currently exists within the application is spread between documents and may not be fully appreciated by the councils. We have therefore prepared a more comprehensive Landscape Strategy Section within the DAS that pulls all of these strands together for ease of understanding and added some further detail to the Design Code Document that may assist the examining authority.	The effort has been acknowledged. However, the majority of additional information included in the revised Design Code are high level statements taken directly from the Design and Access Statement (DAS). The landscape strategy in the Design Code is primarily high-level statements of landscape intentions, rather than a design code to inform and guide future development plot proposals as to requirements and structure.
Page 4,	Remarks on Executive Summary	It is considered unfortunate, that Land Use Consultants Limited still feel that the updated Design Code, statements, and clarifications, put forward in the initial response, have not, in their view, yet been deemed acceptable in landscape design terms based upon their own review of the scheme. It is not the case, that the Applicant has not taken onboard the comments made in the initial review in the manner in which they have been purported to have been made, but moreover the initial response set out to explain how, in the very specific case of an SRFI, the appraisal of the scheme against the ten characteristics of a 'well designed place' is a different process to that, of say, a residential scheme, which, as previously established, the National Design Guide is focussed upon. The Applicant is committed to delivering a well-designed scheme, that seeks to respond in a positive manner to the existing landscape context, but it does need to be appreciated, that in the provision of an SRFI scheme, there are limitations, and this is recognised in NPS-NN, paragraph 4.30: <i>'It is acknowledged however that, given the nature of much national infrastructure development, particularly SRFIs, there may be a limit on the extent to which it can contribute to the enhancement of the quality of the area.'</i>	<p>Acknowledgment welcomed.</p> <p>While some limited comments have been taken on board and the Design Code expanded to demonstrate typical landscape typologies, most of the responses are still weak. The overall illustrative landscape proposals remain as previously submitted, with limited additional detail.</p> <p>The specific status of the SRFI is of limited consequence to a landscape assessment. The landscape assessment uses established design guidance to assess the impacts on the existing landscape, irrespective of proposed land use.</p>

Table 1.2: LUC design comment on Response on Points raised at Issue specific Hearing 03 – Environmental Matters - November 1, 2023 (REP4-133)

Document Reference	Summary of Representation	Applicant Response	BDC Response
Loss of Veteran Tree Page 1	Points 1 & 2	LUC's commitment to their original standpoint on the Veteran Tree is acknowledged and the NPS-NN requirement fully understood, as is the need to demonstrate that its loss is unavoidable.	Noted
	Points 3 & 4	Reviews of the previous iterations of the masterplan, place the Veteran Tree in the centre of a parking area or within the estate road, and to retain the tree would not just require a reworking of the plan in a top down two dimensional way, but also require retention and protection of its current natural habitat for a minimum of 15 times the diameter of the tree, including the levels and hydrological conditions to maintain the condition of the tree. This also, only pertains to the final state environment, with further construction and design restrictions going beyond these bounds. It is appreciated that the technical points surrounding the scheme have been understood, but just as important is the understanding that this isn't a scheme where the final detailed design is known, and the masterplans were produced to 'illustratively' show what the development could look like and hence why is a parameter led application. As was stated in the hearing, the retention of the Veteran Tree and further changes in the number and location of plateaus within the development zones would not allow the Applicant to satisfactorily respond to all occupier enquiries in a way that would not affect the operation, functionality, or safety.	No additional justification for removal provided. The Council stand by LUC's original assessment that the removal of the Veteran Tree on site has not been proven to be unavoidable.
	Point 5	Tree planting details will be provided as part of Requirement 22. The LEMP set out the tree species mixes and management for new planting. As noted in the LEMP and would be usual, woodland mixes will be planted as whips for the greatest chance of sound establishment. The masterplan while illustrative, is guided by the parameter plan which sets the area requirements for landscape proposals. The landscape and visual assessment is based on the mitigation as set out in the parameter plan and detailed in the illustrative landscape strategy. Whilst the exact locations may vary at the detailed stage depending on the configuration of the layout, the overall quantity and nature of planting is required to be broadly as described in the illustrative landscape strategy as that is the embedded mitigation that is relied upon for the assessment and the ultimate success of the scheme.	Additional information provided within the updated Design Code on tree species mixes to specific areas and typologies. However, while some detail on sizing for certain areas (Amenity areas suggest extra heavy standards and semi-mature) additional information on sizing generally would be required to set the ground rules for future development proposals and to close out comment. A succinct tree strategy diagram is required to demonstrate and quantify the different typologies. Noted that detail design deferred to future detail approvals.
Sense of Place Pages 1	Points 6 & 7	The current landscape character has not been disregarded, the Statements of Environmental Opportunity within NCA94 – Leicestershire Vales and the Landscape Guidelines associated with the relevant district Landscape Character Areas have been taken into account in the proposals and a number of aspects incorporated into the planting proposals in particular. However, as is recognised within the NPS-NN 'it may be that countryside locations are required for SRFIs'.	While it is appreciated that ' <i>given the nature of much national infrastructure development, particularly SRFIs, there may be a limit on the extent to which it can contribute to the enhancement of the quality of the area</i> ', this does not justify an identikit approach to

Document Reference	Summary of Representation	Applicant Response	BDC Response
		<p>(NPS-NN paragraph 2.56) and as previously referenced; <i>'It is acknowledged however that, given the nature of much national infrastructure development, particularly SRFIs, there may be a limit on the extent to which it can contribute to the enhancement of the quality of the area.'</i> (NPS-NN, paragraph 4.30) and it needs to be recognised that an SRFI will be quite distinct from the pattern of nearby villages in terms of scale and design. The proposals that have been put forward, follow a detailed study that was undertaken, to establish the architectural typology within the locality, especially those of comparative use, to ensure that the proposals put forward for HNRFI are of the highest standard and appropriateness. The proposed building design is the result of years of evolutionary development work with the Applicant, that has culminated in a form, design, and application of material, that can respond to the location, environment, constraints, and occupiers' operational requirements in a positive way, as well as providing an aesthetic that can establish and create its own sense of place without replicating other surrounding logistic / industrial developments. Whilst the buildings will follow the same aesthetic theme, this does not dictate a monotonous design, the buildings will change in scale, mass and orientation as well as having constant active frontages and key focal points provided by the office locations. In addition, each will be set in their own landscaped environment, and accessed via a seasonally changing avenue and streetscape. By creating a clear distinction between the main HNRFI site and the surrounding publicly accessible areas, it allows for the necessary larger form and scale of buildings to be accommodated in a considered manner, appropriate to their function and operation, alongside the more 'human-scale' components of the development such as the landscaped green corridors of the new bridleway and the extension to Burbage Common and Woods. This simplicity means that visitors to the site can make clear directional choices in terms of either entering the main HNRFI site to their place of work, or along defined routing and pathways laid out for walking, cycling or horse riding. Signage will be provided for information purposes, guidance and safe navigation, but as with all developments, familiarity for repeat visitors will render this unnecessary. Reasoning has already been provided, as to why the veteran tree and other landscape features cannot be retained in order to deliver an SRFI in this location. The illustrative landscape strategy sets out how the creation of new landscaped areas will tie the development into the existing area with new woodland, scrub and grassland linking to surrounding habitats</p>	<p>development proposals and abandonment of existing landscape character.</p> <p>As commented previously, the scheme will rely heavily on signage and wayfinding, instead of utilising existing landscape features to create an evolving and mutable landscape. Where this is not possible, good design distinctions can be made between routes through locally distinct planting design and style.</p> <p>The Design Code provides the opportunity to set up and define characteristics of the landscape environment and typologies to inform each development plot and future proposals. While progress has been made in explaining some elements and landscape typologies, it is not considered a thorough design code.</p> <p>The Council disagrees with the statement regarding signage <i>'but as with all developments, familiarity for repeat visitors will render this unnecessary'</i>.</p>
<p>Wayfinding within the development and hierarchy Page 1</p>	<p>Point 8</p>	<p>To clarify, this statement was made in the context of the examples set out within the NDG, which as already stated, is at its core, a document for residential development. The response went on to state how the principal infrastructure proposed for the development does display the characteristics of street hierarchy, and the Design Code (Ref 13.1A) identifies the differences between the A47 Link Road proposals and the internal estate roads. Importantly, it also recognises that these must fundamentally provide appropriate and safe ways and means for access by all means to their destination. It is difficult to see how,</p>	<p>Additional information provided within the Design Code, including additional specific codes relevant to this point for:</p> <ul style="list-style-type: none"> - A47 Link Road - Internal Distributor Roads - Public Realm and Public Rights of Way

Document Reference	Summary of Representation	Applicant Response	BDC Response
		when purposefully, the number of access points and nodes along the A47 Link Road are limited, how this can be seen as anything other than making wayfinding as easy as possible for users, and as mentioned above, familiarity for repeat users will render the signage provision unnecessary.	<p>- Development Plots</p> <p>This provides information on street hierarchy and characteristics, with specific detail on footpath widths, materiality, planting strategy and SuDS. Additional detailed plans and typical sections also assist to illustrate.</p> <p>This additional information provides sufficient detail to satisfy the Council's comment on street hierarchy.</p>
	Point 9	The detail requested will come forward pursuant to the Requirements, notably Requirement 4 'Detailed Design Approval'	Noted
	Point 10	See point 8.	Noted
Use of Materials and Architectural Style Page 2	No point reference against this heading.	Reference has already been made, and recognised by LUC within their response, as to how the introduction of an SRFI within a countryside setting has its limitations, especially in terms of how it can respond to a local vernacular or context. The suggestions made, and the Applicant understands the thought and reasoning that went into them, were not dismissed out of hand, and due consideration was given to them in the prepared response, and the reasoning why these weren't adopted in this instance explained in detail. The Applicant has confidence in the architectural style and how the palette of materials, and the application of them, that breaks down the mass of the building both horizontally and vertically, provides the best and most appropriate response in this setting, especially when utilised in conjunction with the illustrative landscaping proposals. It is true that AJA Architects have made use of other materials in their designs for other developments, as any Practice would for specific commissions, but not in their work on other SRFI's or large-scale logistics parks, and therefore the comment is misleading in this context. Where appropriate, within the landscape settings and smaller architectural elements, the use of local materials is not dismissed and this can be captured as part of Requirement 4 'Detailed Design Approval'. The use of graduated cladding was not ignored, but its application on large scale distribution units, because of its 'block on block' application draws the eye to the mass of the building in a horizontal way, and the use of colour, whether it be blue as suggested or another, because of the limitations of the colour palettes available always looks foreign in a landscape setting, something that is very evident at the development at Magna Park. Similarly, given the proximity of Magna Park to the site, if HNRFI is to have its own identity, this is something to avoid. The point made on the undulating roofline, was made against the suggestion that consideration could be given to a continuous parapeted eaves design, and in that context it is a more natural form than a straight line, and far from being monotonous, when applied to buildings of	<p>No further detail provided in the Design Code. The Council's previous comments that the proposed architectural detailing and style would be foreign within the landscape setting are still relevant. It is the Council's view that diversity between the buildings would help reduce the impact of this large-scale logistic park.</p> <p>This distinction on use of local materials is not referenced in the Design Code as guidance for consideration. While section 11.4 specific codes – office design refers to 'different cladding types used on office elevations to assist in creating an active and well-designed frontage which is readily distinguished from the rest of the building'; section 11.5 – materials states 'office elevations will use either flat or micro-rib profile panels.</p> <p>Noted that design deferred to Requirement 4 'Detailed Design Approval'. While the detail could follow in future applications, the principles and strategy should be set out within this application.</p>

Document Reference	Summary of Representation	Applicant Response	BDC Response
		differing scale and form, provides change and interest, whereas buildings with a continuous parapet have a tendency to blur and be read as one mass.	
Detail within the Design Code Page 2	Points 11, 12 & 13	The Design Code (Ref 13.1A) has been updated again with greater detail and information and will form part of the Deadline 4 submission documents. It is worth reiteration that the Design Code and Illustrative Masterplan (ref 2.8A) have been submitted having regard to the National Design Guide proportionate to the decision taking for this DCO, and that additional detail will come forward pursuant to Requirements 4 (Detailed Design Approval).	The Council acknowledges the effort put into the Design Code and the progress made. However, elements are largely taken directly from the DAS without introductory text and/or diagrammatic explanation. The Parameters Plan and the Landscape Strategy are still unchanged. Specific notes on Design Code in table below.

Table 1.3: LUC design comment on the Applicant's response to LUC Comment on the Applicants amendments to the Design Code (REP4-133)

Document Reference	Summary of Representation	Applicant Response	BDC Response
Page 4, section 1.3	Point 16	Noted, no further comment.	N/A
	Point 17	It is submitted, that explanation of how this has been applied has been detailed, not only within the document, but also by the other responses that have been made in the original response at Deadline 2, the ISH and this further response.	Noted
Pages 5, section 1.5	Point 20	The local authorities are focussing on the features that are to be removed within the main development site but it must be noted that the many landscape and ecological features within the DCO boundary are to be retained. For example of the 872 arboricultural features (individual trees, groups of trees, woodlands and hedgerows) surveyed, 312 are to be lost or partially lost. However, this leaves the majority – 540 features retained within the DCO boundary. As a result of the central nature of the features to be lost, a misconception has developed that the applicant has not respected the existing vegetation and features on site. That is not the case. Whilst the nature of the scheme does require the loss of more features than other types of development, the proposals have retained as many of the existing features as possible. Further, the proposals respect existing vegetation patterns in so far as they replicate the existing vegetation within the local area. For example, wet woodland and grassland alongside stream courses to respect the existing character in lower lying areas within Elmesthorpe Floodplain Landscape Character Area; woodland copses, scrub and meadow grassland to reflect the vegetation in the Country Park; and copses, ponds and hedgerows which are characteristic of the broader countryside of the Aston Flamville Wooded Farmland LCA and Stoney Stanton Rolling Farmland LCA.	No change to this section of document. As detailed in previous response, the proposal does not align with core policy due to the removal of existing green infrastructure including watercourse, hedgerows and veteran tree within the primary development zone set by the parameter plan. For this reason the Council does not agree that the proposal respects existing vegetation patterns.

Document Reference	Summary of Representation	Applicant Response	BDC Response
Pages 5, section 1.6	Points 21, 22, 23, 27, 28, 29	Whilst the nature of the scheme is such that it has not been possible to retain all features of landscape and ecological interest, as the landscape strategy illustrates, many features are being retained and a considerable network of new habitats and landscape features will be created which will provide a richer natural environment in and around the site. There has been no simplification of design proposals, the proposals remain as they were at the application stage and as set out in the illustrative landscape strategy.	<p>The Council's previous comment noted that the simplification of the previously detailed landscape strategy has been carried out to ensure the applicant can meet its own design principles through the proposal although to the detriment of the delivered scheme and the environment it's situated within.</p> <p>The Council would anticipate a design code to set out a series of detailed rules and principles for a development. The current code appears to amount to a series of high-level statements, very few of which have definitive language to guarantee anything or to guide the future detailed development.</p> <p>While it is acknowledged that the revised Design Code document does start to set up rules for the different boundary and streetscape typologies within the active 'pink' zone, the detail is light and language is not definitive beyond meeting standards.</p> <p>This fundamentally conflicts with the applicant's statement that 'the illustrative landscape strategy has been developed iteratively to maximise the potential for betterment at the site'.</p>
Page 12, section 3.1	Point 32	The point made previously, was that the parameters plan did not seem to show the same evolutionary process as the illustrative masterplan did, however this is not the case, and the Parameters Plan did indeed keep in step with the evolution of scheme.	No change to document wording – the point previously raised that despite comments outlined in the original LUC design report regarding character, scale, impact on nature and the locality (also raised independently by other parties during consultation), the scheme doesn't appear to have taken these comments into consideration.
Page 14, section 4.1	Point 33 & 36	<p>An SRFI requires a uniformity within which the Railport, serving infrastructure and development plots can be laid out within. Notwithstanding the larger scale that an SRFI dictates, and as was noted at the ISH, only smaller, non rail served developments, could seek to achieve this.</p> <p>This point is not correct, and none of the previous iterations of the masterplan retained the veteran tree.</p>	<p>Noted</p> <p>Noted</p>
	Point 37.	As has been previously stated, multiple plateaus, when the detail of the development is not yet known, would not allow the Applicant to satisfactorily respond to all occupier enquiries in a way that would not affect the operation, functionality, or safety.	Noted, but this is not a concern of landscape assessment.

Document Reference	Summary of Representation	Applicant Response	BDC Response
Page 20, section 5.2	Point 41	Applications to achieve a BREEAM Excellent rating, will be made, specific to the individual developments, as this is how the process is designed to be, with the rating being attributable to a specific building. The detail of any application will be subject to the characteristics of that development, but will, where appropriate make reference to elements outside of the individual developments demise, e.g. the provision of bus facilities. The Design Code will be reviewed to provide greater clarity.	<p>Minor amendment to document to describe commitment to permeable paving within parking areas and footpaths. However, no firm commitment to proportion. No additional details provided on existing landscape and ecology matters. Previous comments remain.</p> <p>Further detail required on how the development will achieve Ecology and Land use credits to achieve BREEAM Excellent.</p>
	Point 42	The landscape proposals as set out within the illustrative scheme are subject to the rigour of the biodiversity net gain process which has ensured that all opportunities to maximise biodiversity within the DCO boundary have been explored alongside the natural landscape design development process of seeking to introduce and enhance characteristic landscape features within the local landscape.	The Council would disagree that all opportunities to maximise biodiversity with the DCO boundary have been explored. As highlighted previously, existing landscape features within the development zone have been disregarded to maximise opportunities for development plots.
Page 25, section 6.3.1	Points 46 & 47	The local authorities are focussing on the features that are to be removed within the main development site but it must be noted that the many landscape and ecological features within the DCO boundary are to be retained. For example of the 872 arboricultural features (individual trees, groups of trees, woodlands and hedgerows) surveyed, 312 are to be lost or partially lost. However, this leaves the majority – 540 features retained within the DCO boundary. As a result of the central nature of the features to be lost, a misconception has developed that the applicant has not respected the existing vegetation and features on site. That is not the case. Whilst the nature of the scheme does require the loss of more features than other types of development, the proposals have retained as many of the existing features as possible. Further, the proposals respect existing vegetation patterns in so far as they replicate the existing vegetation within the local area. For example, wet woodland and grassland alongside stream courses to respect the existing character in lower lying areas within Elmesthorpe Floodplain Landscape Character Area; woodland copses, scrub and meadow grassland to reflect the vegetation in the Country Park; and copses, ponds and hedgerows which are characteristic of the broader countryside of the Aston Flamville Wooded Farmland LCA and Stoney Stanton Rolling Farmland LCA.	<p>No further commitment or detail provided in the updated Design Code on the retention of key ecology and habitat.</p> <p>As commented previously the Council would urge the applicant to explore ways in which to retain valuable site assets within the primary development zone. This aligning with policy and generally master planning best practice.</p>
	Point 48	As many landscape and ecological features have been retained as is possible within the constraints of delivering an SNRFI, to defined parameters within a defined area whilst ensuring the necessary flexibility to ensure the development meets the needs of future occupiers. This is a clear approach which has remained constant throughout the application process.	As the applicant states, the approach to flexibility of development over retention of existing landscape and ecological features has remained constant throughout and has not considered the Council's previous comments to align the scheme with policy and best guidance.

Document Reference	Summary of Representation	Applicant Response	BDC Response
			As commented previously the Council would urge the applicant to explore ways in which to retain valuable site assets within the primary development zone. This aligning with policy and generally master planning best practice.
Page 25, section 6.3.2	Point 60	Noted, no further comment.	N/A
	Point 61	Further details are provided in the updated DAS /Design Code	Updated DAS & Design Codes acknowledged. Further detail provided across the Design Code including typical sections and plans, providing high level guidance on spatial requirements to landscape features and typologies. While the description is relatively generic and high level for a design document such as this, they do provide a level of reference to develop and assess future landscape proposals.
	Point 62	The point is noted, but this needs to be reviewed in the context of an SRFI and what is realistic for a development of that scale. There is not an option to deliver a small-scale business park or mixed-use scheme which can readily incorporate most key landscape features and respond to local character in terms of scale.	While the point is noted, the scale of a development should not override matters of landscape character. The Council's position remains unchanged. The landscape character and sense of place would be further strengthened if the existing green infrastructure could be better retained and enhanced.
	Point 63	The A47 link lies to the north of the Country Park and does not sever it. The option remains to increase the verge between the carriageway and the footway and provide increased segregation at the detailed design stage.	No further comment to add.
	Point 64	To be checked with BWB.	Noted. Additional detailed text provided to confirm segregation, however graphic section shows conflicting information with combined cycle/footway.
	No specific point reference, but taken from note 67	The local authority appears to misunderstand the application when making these comments. The applicant is bound by the parameters plan, the proposals as set out in the illustrate landscape strategy, the embedded mitigation, the biodiversity net gain requirements, and all of the requirements of the DCO. The changes to the wording of the design code submitted at Deadline 2 have been taken out of context and not in the spirit of which they were intended. The approach to the application remains the same. For the avoidance of doubt a landscape strategy document has been prepared which draws together all of the key landscape	On review of the landscape strategy, the Council does not consider that this sets out a clear, concise strategy for landscape elements. A simple series of diagrams would help to illustrate how the various strands of landscape and ecology fit together with the functional requirements of the application. In the Council's view this should be provided as

Document Reference	Summary of Representation	Applicant Response	BDC Response
		information in one place to ensure all aspects of the landscape character approach, landscape features retention, landscape proposals and management approach is fully understood.	part of the current documentation to set clearly the outline the framework for green and blue infrastructure.
	No specific point reference, but taken from note 71.	The well-being areas are captured within the design code (section 12.11), and the precise detail would be part of the Requirement 4 (Detailed Design Approval). The statement is correct in that the public routing, for those that are not visitors or employees of the main HNRFI, is not along the internal estate roads, and this is clear from both the illustrative masterplan, parameters plan, and PROW plans, with the routing being set out around the main development area. However, use of the footpaths and cycleways within the main development area is not precluded by the public should they so wish to use them.	Reference is made throughout the revised Design Code, deferring most of the landscape design to detailed design approvals as per DCO Requirements. This confuses the purpose of a Design Code as the guidance and rules are designed to guide future detail of the development. While the detail could follow in future submissions, the principles and strategy should be set out within the current documentation. Descriptions of the different spaces are limited and would benefit from explanatory text/diagrams and location plans.
	No specific point reference, but taken from note 73.	As above, the changes to the wording of the design code submitted at Deadline 2 have been taken out of context and not in the spirit of which they were intended. The approach to the application remains the same. For the avoidance of doubt a landscape strategy document has been prepared which draws together all of the key landscape information in one place to ensure all aspects of the landscape character approach, landscape features retention, landscape proposals and management approach is fully understood.	On review of the landscape strategy, the Council does not consider that this sets out a clear, concise strategy for landscape elements. A simple series of diagrams would help to illustrate how the various strands of landscape and ecology fit together with the functional requirements of the application. In the Council's view this should be provided as part of the current documentation to set clearly the outline the framework for green and blue infrastructure.
	No specific point reference, but taken from note 75.	It will be the local authorities who discharge the requirements of the DCO and will therefore be in a position to ensure adequate and expected details appear within the detailed landscape scheme in broad accordance with the illustrative scheme which formed the basis of the assessment. Species mixes are detailed in the LEMP and DAS submitted with the application.	Reference is made throughout the revised Design Code, deferring the majority of landscape design to detailed design approvals as per DCO Requirements. This confuses the purpose of a Design Code as the guidance and rules are designed to guide future detail of the development. While the detail could follow in future submissions, the principles and strategy should be set out within the current documentation.
Page 34, section 8.5	No specific point reference, but taken from note 77.	There is a clear PRoW Strategy that has been discussed and agreed with the councils and there is no apparent confusion beyond the wording of this design response document. Permissive footpath and cycle routes offer direct access through the development for those who desire it, noting this will require multiple	No further comment to add.

Document Reference	Summary of Representation	Applicant Response	BDC Response
		road crossings. A new offroad bridleway is proposed around the perimeter of the site within a broad green corridor with one signalised road crossing.	
	No specific point reference, but taken from note 80.	<p>Text changes have been taken out of context, noting the species mix lists are within the LEMP and DAS and incorporate a variety of species of local importance and landscape character is promoted through a range of different proposals including</p> <ul style="list-style-type: none"> • Provision of new accessible green space; • New hedge planting which will be managed with traditional 'Midlandsstyle' hedge laying to improve structure and biodiversity; • Planting trees of appropriate size and species within open ground and hedgerows with opportunity to grow large spreading canopies and be the veteran trees of the future; • Planting wet woodlands in lower lying ground to extend this local habitat type; • Establishing a SuDs scheme to manage run-off and any pollutants from the development; • Establishing new areas of meadow grassland; and • Establishing new areas of woodland. 	<p>The additional detail, description and typical plans/sections within the Design Code do assist with understanding the proposals and setting some rules for future development applications.</p> <p>Reference is made throughout the revised Design Code, deferring the majority of landscape design to detailed design approvals as per DCO Requirements. While the detail could follow in future submissions, the principles and strategy should be set out within the current documentation.</p>
	No specific point reference, but taken from note 83.	This comment has been addressed in the previous notes under the heading of Use of Material and Architectural Style.	Point noted. No amendment or additional information provided within to Design Code
Page 45, section 11.6	No specific point reference, but taken from note 85.	It is not a case of strengthening the Tritax brand, but moreover, that the Applicant has developed a form that meets the needs, and can be adapted to suit the widest range of occupiers, a material application that works well in breaking up the visual mass and scale of the buildings, and through the use of a range of monotone hues, works far better as a backdrop to a considered landscaping scheme than an introduction of colours, that in reality to align to the natural environment.	<p>No amendment to Design Code.</p> <p>While utilising the Tritax brand colours is not an issue in itself, as per the Council's previous comment, the Council would advise such an intention at this scale is inappropriate with respect to impact on the surrounding area and is not in line with local or national policy. Based on the submitted sections and visualisations it certainly will not create a subtle appearance as described by the applicant.</p>

Table 1.4: LUC comments on Applicant's response to LUC Comment on the Applicants response to Local Impact Report – LUC's Landscape Design Review (REP4-133)

Document Reference	Summary of Representation	Applicant Response	BDC Response
Page 1, point 3 Intro remarks - consultation	Point 89	The points are noted, however the response was to merely note that the detail contained within the review couldn't be appraised or assimilated prior to its issue.	Noted
	Point 90	The note is not an acceptance of deficiencies, but an observation on timing and how the application couldn't address the detailed points prior to its issue.	No comment to add
Page 2, point 6 Landscape Vision	Points 93,94 and 95	It is accepted that the changes incorporated into the Design Code at Deadline 2 introduced a number of inconsistencies and misunderstandings. All documents have now been subject to a full review and wordings updated to reflect the applicants clear position with regard to design which has not changed.	Design Code and DAS documents have been updated and the logic is clearer. The additional detail, description and typical plans/sections within the Design Code do assist with understanding the proposals and setting some basic rules for future development applications. However, as the applicant states, their position on design has not changed. This has not addressed the fundamental issues of scale and character raised in the previous landscape design reviews and the Council still considers the overall landscape design to be of poor quality.
Page 2, point 7 Good Design	Point 100	By way of clarification, is the note stating they believe that the NPS or NDG should carry the greater weighting? By way of confirmation, the Applicant isn't applying a greater or lesser degree of importance on either document, and that it believes that the application addresses both in an appropriate way.	This note was not stating a greater weighting for either document, as they should be read in tandem.
Page 3, point 12 Design Detail	Point 105	Agreed.	N/A
	Point 106	Agreed, and it is submitted, that in the context of the application for an SRFI and the absence of a known detail, that it provides this.	Noted
	Point 107	It is clear from the council's commentary that they do not fully understand or appreciate the landscape and green infrastructure proposals that form a part of the application. That may be a result of information being split across a number of documents – the Landscape ES Chapter including Appendices noting in particular the Baseline Assessment and Arboricultural Impact Assessment, Illustrative Landscape Strategy, Design and Access Statement, Design Code and LEMP. To address this, an updated Landscape Strategy	The Landscape Strategy section added to the Design Code is acknowledged and does assist with review of the landscape and green infrastructure by specific area – albeit illustratively. The additional detail, description and typical plans/sections within the Design Code do assist with understanding the proposals and setting some rules for future development.

Document Reference	Summary of Representation	Applicant Response	BDC Response
		Section has been included in the DAS which draws all of the relevant aspects together in one place.	However, a coherent overarching landscape strategy should be provided to demonstrate how the various strands of landscape link together across the masterplan site.
Page 3, point 16 Functionality	Points 111, 112 and 113	This isn't a case of semantics, but that the use of function or functionality is applied as a negative connotation in the review of the scheme, and that it shouldn't be seen as one of the key drivers for the basis of the development. It is agreed, that function should not be prioritised to the detriment of all other considerations, but it is a fundamental consideration in the planning of an SRFI.	Noted. No additional detail relative to landscape assessment provided.
Page 4, point 20 Characteristics	Points 117	The point misleads, as the Applicant doesn't state that it isn't successfully integrated, rather that because of its countryside location, it will be distinct from the neighbouring villages, by reason of it being an SRFI and capturing the characteristics of village design within it aren't appropriate.	Noted
	Point 118	The scale of the development zone is proportional to delivering a successful SRFI in this location	Noted
	Point 119	The point has already been made in that for smaller developments and non-rail related schemes, it is possible to respond to the existing grain of the landscape, but not in the case of an SRFI, which requires the larger development plateaus for safe, functional, operational purposes.	Noted. No additional detail provided. The Council maintains its previously stated view that working with the existing grain of the landscape may have been more appropriate.
	Point 120	Where appropriate, within the landscape settings and smaller architectural elements, the use of local materials is not dismissed and this can be captured as part of Requirement 4 'Detailed Design Approval'.	Noted. No additional detail provided in Design Code as guidance. While it would be appropriate for detail design to be determined at a future application, reference should be made within the Design Code to local material options and strategy to assist future development design and approvals.
Page 4, point 22 Parameter Plan Preparation	Point 123	See point 118 and 119 above	N/A
	Point 124	The scheme has been developed by a full team of professionals, experienced in developing schemes of this type throughout the UK, and is not the result of a single imposed vision.	Noted
	Point 125	By necessity for a scheme of this nature, no one discipline has led the design approach per se. A number of different factors have been key at different stages including rail requirements, operational requirements and landscape and ecological factors. A practical approach has been taken that goes	As previously stated the primary development zone within the parameter plan appears disproportionate to the site, which puts pressure on the resultant design

Document Reference	Summary of Representation	Applicant Response	BDC Response
		beyond the boundaries of the site, recognising that the best practicable environmental option at a district or national level is to maximise the development potential of this site and avoid the potential need for further greenfield site use beyond the well contained boundaries of the current DCO. Therefore, while the traditional aspects of a 'landscape' led approach on a smaller scale mixed use development' are not central to this design, a different set of landscape benefits have been considered and taken into account including creation of 22ha of publicly accessible green space and a well contained scheme which minimises its impact on the wider landscape for the scale of logistics benefits it can deliver. Moreover, it should be noted that green and blue infrastructure account for 28% of the Main HNRFI and A47 Link Corridor area which, at over a quarter of the total area, demonstrates the extent to which landscape and ecology have been a central part of the design development process. Also of note, whilst the parameter plan shows a central development area without green space to avoid creating additional constraints, a significant part of the area will constitute green and blue infrastructure with attenuation basins, structural planting, amenity areas, tree lined streets and green corridors all forming a part of the 'pink' zone'.	<p>and leads to inadequate opportunities for mitigation of the scheme.</p> <p>The scale of the development should not be a reason to discount a landscape led or hybrid approach. In fact, such is the regional importance and potential impact for such a sensitive site that this would have benefitted the masterplan and result in a proposal that is more sensitive to its environment and assist in meeting key aspects of environmental policy.</p> <p>While it is acknowledged there is a quantity of landscape benefits and publicly accessible greenspace to the periphery, this does not address the fundamental issues of scale and loss of existing landscape to the central development zone.</p> <p>To assist in demonstrating the green and blue infrastructure, structural planting, amenity areas, tree lined streets and green corridors described in the applicant's response and sporadically through the Design Code, the Council would suggest producing a series of clear landscape strategy diagrams to demonstrate how these elements/strands fit together in the landscape masterplan.</p>
Page 4, point 24 Landscape Design Review	Point 128	Not sure how the statement misleads when it just confirms that the Landscape Design Review comments have been responded to and in what way.	No comment to add
	Point 129	To confirm, all of the points were addressed in the initial response, and changes made in line with the response.	<p>As noted previously, this statement is misleading.</p> <p>The majority of points raised within the Landscape Design Review have not been addressed and the scheme appears to remain largely unchanged.</p> <p>While limited additional detail has been provided on specific issues (street hierarchy and tree planting, as examples), the fundamental issues raised on scale of development, existing landscape features and character have not been addressed.</p>
Page 5, 1.2	Point 132	Noted.	N/A

Document Reference	Summary of Representation	Applicant Response	BDC Response
core documents Design Code	Point 133	The response went into detail to explain, how, the proposals, in the context of an SRFI, has addressed the 10 characteristics of a well-designed place	Noted
Page 6, 2.2 Identity	Point 137	Agreed	N/A
	Point 138	See responses above relating to species and landscape character.	N/A
Page 7, 2.3 built form Wayfinding & Sense of Place	Point 141	It is correct that the development will create its own sense of place, as this is inherent in the creation of a new SRFI in this location. It is not the case however, that the current and neighbouring characters have been disregarded, merely that replication of such character within the main HNRFI site is not appropriate to a well-designed scheme of this type.	No additional justification or change to design proposals within Design Code. As noted previously, the applicant states the development proposes to create its own sense of place, but little detail is provided on how this will be achieved without disregarding the current and neighboring characters.
	Point 142	Clarification is sought on why it is believed that this goes against guidance, so that an appropriate response can be provided.	As noted in the Landscape Design Review, draft NPS (4.24) states development should; <i>'make a positive contribution to local landscapes within and beyond the project boundary.'</i> From a landscape perspective, the Council cannot agree that this proposal meets this criteria due to negative impacts on the surrounding local landscapes, both physically and visually.
	Point 143	By creating a clear distinction between the main HNRFI site and the surrounding publicly accessible areas, it allows for the necessary larger form and scale of buildings to be accommodated in a considered manner, appropriate to their function and operation, alongside the more 'human-scale' components of the development such as the landscaped green corridors of the new bridleway and the extension to Burbage Common and Woods. This simplicity means that visitors to the site can make clear directional choices in terms of either entering the main HNRFI site to their place of work, or along defined routing and pathways laid out for walking, cycling or horse riding. Signage will be provided for information purposes, guidance and safe navigation, but as with all new developments, familiarity for repeat visitors will render this unnecessary.	Additional information provided within the Design Code, including additional specific codes relevant to this point for: <ul style="list-style-type: none"> - A47 Link Road - Internal Distributor Roads - Public Realm and Public Rights of Way - Development Plots This provides information on street hierarchy and characteristics, with specific detail on footpath widths, materiality, planting strategy and SuDS. Additional detail plans and typical sections also assist to illustrate.

Document Reference	Summary of Representation	Applicant Response	BDC Response
			This additional information provides sufficient detail to satisfy our comment on street hierarchy.
	Point 144	Many of the landscape features are being retained and new planting is designed to respond to local character. The nature of the development is such that a new 'sense of place' will be established which will draw on larger scale features such as woodlands, ponds and meadows.	Noted. No change to design proposals or justifications. The Council's previous comment remains valid – retention of some of the landscape features such as the veteran tree, existing hedgerows or brook are opportunities missed to give the development a strong sense of place that is connected to the current environment.
Page 8 section 2.3	Point 147	This point has been addressed in our previous note on response on Points 8 and 9.	Noted
Hierarchy	Points 148, 149, 150, 151	These points have all been addressed in our previous response on Points 8 and 9.	Noted
Page 8 section 2.3	Point 158	Noted.	N/A
Relationship	Point 159	The applicant does not consider the planting scheme to be inadequate. Yes, there are some significant visual impacts but that is to be expected for a scheme of this nature. Notably they are contained within 1km of the site and the effects are relatively well contained.	No change to design proposals or justifications. The Council maintains its comment that the areas set aside to buffer this development dictated by the parameter plan are severely inadequate leading to the significant visual impact to the surrounding receptors that has been found to be a matter agreed on by both parties.
Page 13, section 2.8	Point 187	Where appropriate, within the landscape settings and smaller architectural elements, the use of local materials is not dismissed and this can be captured as part of Requirement 4 'Detailed Design Approval'	No further detail provided in the Design Code. This distinction is not referenced in the Design Code as guidance for consideration. While section 11.4 specific codes – office design refers to 'different cladding types used on office elevations to assist in creating an active and well-designed frontage which is readily distinguished from the rest of the building'; section 11.5 – materials states 'office elevations will use either flat or micro-rib profile panels.
New Buildings	Points 188 & 189	It is not a case of imposing the Tritax brand, but moreover, that the Applicant has developed a form that meets the needs, and can be adapted to suit the widest range of occupiers, a material application that works well in breaking up the visual mass and scale of the buildings, and through the use of a range of monotone hues, works far better as a backdrop to a considered	No change to design proposals or justifications. Previous comment remains valid - a more sensitive approach would be more aligned with national policy and lead to a better development more integrated into its local context.

Document Reference	Summary of Representation	Applicant Response	BDC Response
		landscaping scheme than an introduction of colours, that in reality to align to the natural environment.	
Page 14, section 2.9 Adaptability	Point 193	It is submitted, that in the context of the application for an SRFI and the absence of a known detail, that the level of detail provides sufficient information to inform and guide future submissions pursuant to Requirement 4 (Detailed Design Approval.)	Noted
	Point 194	This point has been addressed in our previous note on response on Point 118.	Noted
Page 15. Section 2.9 Materiality	Point 197	The SUDS and overall drainage strategy is a holistic site wide consideration, and it is only the detail of how it will be applied that will be undertaken on a plot by plot basis.	Holistic method requires site-wide strategy which suggests an opposite approach than plot-by-plot basis described. A diagram to demonstrate the SuDS strategy, and referencing the Concept Drainage Strategy Plan would help to explain the proposals and SuDS interconnections with the wider landscape. This should be provided as part of the landscape strategy.
	Point 198	Reference to the provision of a SUDS compliant drainage scheme has been made within the Design Code within Section 5 – Sustainability.	Limited reference in Design Code to what SuDS elements would be employed and how they would function as a complete system. Refer to note above.
Page 19,	Point 201	Agreed	N/A

<p>section 3.12 Materials</p>	<p>Point 202</p>	<p>By creating a clear distinction between the main HNRFI site and the surrounding publicly accessible areas, it allows for the necessary larger form and scale of buildings to be accommodated in a considered manner, appropriate to their function and operation, alongside the more 'human-scale' components of the development such as the landscaped green corridors of the new bridleway and the extension to Burbage Common and Woods. Whilst the buildings will follow the same aesthetic theme, this does not dictate a monotonous design, the buildings will change in scale, mass and orientation as well as having constant active frontages and key focal points provided by the office locations. In addition, each will be set in their own landscaped environment, and accessed via a seasonally changing avenue and streetscape. This simplicity means that visitors to the site can make clear directional choices in terms of either entering the main HNRFI site to their place of work, or along defined routing and pathways laid out for walking, cycling or horse riding. Signage will be provided for information purposes, guidance and safe navigation, but as with all developments, familiarity for repeat visitors will render this unnecessary.</p>	<p>Relating specifically to building materials (as per the origin of this comment), while it is appreciated that <i>'given the nature of much national infrastructure development, particularly SRFIs, there may be a limit on the extent to which it can contribute to the enhancement of the quality of the area'</i>, this does not justify an identikit approach to development proposals and abandonment of existing landscape character.</p> <p>As commented previously, due to the consistent approach described within the development itself it will not be distinct at the 'human scale' and will likely appear monotonous. This does not align with good design or encourage natural wayfinding and will rely heavily on signage.</p>
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Document Reference	Summary of Representation	Applicant Response	BDC Response
<p>Pages 20, 21 & 22</p> <p>Approach – Veteran Tree Removal</p>	<p>Points 207 & 208</p>	<p>To reiterate the previous response in respect of the loss of the veteran tree in this response:</p> <p><i>‘The HNRFI proposal, and the Parameters Plan that has been prepared, have defined the vertical parameters of the scheme based upon an engineering review and design that started with the rail element of the works and the connection to the existing Felixstowe to Nuneaton line. This has the least flexibility in terms of its vertical alignment and geometry, and therefore defined the levels for the Railport and the development sites where a direct rail connection can be attained. Once this parameter was set, the neighbouring areas then had to relate to these levels, and work with them in a complimentary manner in all three dimensions. The engineering design for the site, also took into account the need to tie into the existing levels around the perimeter of the site; have a scheme that worked on creating a cut/fill balance for the earthworks to avoid the need to remove material from site, whilst creating development plateaus that provide flexibility in the ultimate position of the boundaries of the individual development plots, and the location of the infrastructure that serves them. Also, and using the ‘Rochdale Envelope’ as a guide for the Parameters Plan given that all the details of the development are not yet confirmed, limits of deviation have also been set out within it, to allow for the movement of specific parameters to provide the required flexibility when responding to individual occupier enquiries. Within smaller scale developments, where smaller, non-rail connected, buildings are more appropriate, there is a greater ability to respond to the existing site levels. However, the requirements of an SRFI, with the provision of a rail terminal and larger building footprints, mean that significant level changes within the terminal itself or the buildings and their plots is not acceptable in order for them to operate effectively. Therefore, Veteran Tree (T486) cannot be retained in its current location, and its loss is unavoidable if TSH is to deliver an SRFI scheme based upon the Parameters Plan, with the engineering of the site levels and the flexibility required within the development plateaus that has informed it. The dead wood from the felling of veteran T486 will be placed in the natural areas to benefit wildlife. Replacement woodland and tree planting across the development including large trees. The proposed mitigation strategy would provide significant additional tree planting, including approximately 20,000 new trees within woodland areas and approximately 600 individual trees as street trees and in amenity areas, as depicted in the Illustrative Landscape Strategy (document reference 6.3.11.20). The trees, including some large trees, will provide structure for the development; create habitat connectivity to provide amenity and microclimatic benefits and ensure succession to the existing tree stock. The new planting has potential for longevity within the landscape and will enhance the species diversity of the site, whilst also contributing to the Green Infrastructure for the area.’</i></p>	<p>Noted – no change to proposals or justification from a landscape perspective. The Council stands by LUC’s original assessment that the removal of the Veteran Tree on site has not been proven to be unavoidable. The NPS NN states:</p> <p><i>Aged or veteran trees found outside ancient woodland are also particularly valuable for biodiversity and their loss should be avoided. Where such trees would be affected by development proposals, the applicant should set out proposals for their conservation or, where their loss is unavoidable, the reasons for this.’</i></p>

Document Reference	Summary of Representation	Applicant Response	BDC Response
		In addition, responses provided within this document, go further in explaining how its loss is unavoidable in the provision of an SRFI in this location.	
	Points 209, 210 & 211	See points 207 and 208 above.	Noted
	Point 212	Repeat of point above – tree size will be determined at the discharge of requirements with variations in size depending on type and timing of planting and location.	Noted
Page 22, section 3.2 Assessment of Good Design	Point 216	LUC's position on this point is noted, however the Applicant still submits that this assessment doesn't take the value of the function and operation of an SRFI fully into account	Noted. The value of function and operation of the SRFI are not a matter of consideration for landscape assessment. The landscape assessment purely considers planning policy guidance.

LUC Landscape Design

05.02.24

Comments on the Applicant's revised draft Development Consent Order

- 1) This representation is made by Blaby District Council (BDC) in response to the latest version of the draft Development Consent Order (dDCO) and Requirements which was submitted by the Applicant at Deadline 4. BDC has set out its comments in the table below, commenting on each provision in turn.
- 2) Where alternative text to the dDCO and Requirements is proposed, the amendments are detailed in bold red text.

Provision	BDC Comment and proposed drafting
Art 5 (Authorisation of Use)	<p>BDC maintains its position on this article as outlined at our Deadline 3 comments on the Applicant's revised dDCO [REP3-096]. It is unclear how article 5 operates in relation to article 42 (Operation and use of railways) and there appears to be a degree of overlap with these provisions. Article 5 suggests the undertaker and any persons authorised by the undertaker may operate the railway comprised in Works Nos 1 and 2. But article 42 suggests the railway may only be operated by the undertaker. It is therefore unclear whether 'persons authorised by the undertaker' may operate and use the railway comprised in the authorised development (as suggested by article 5), or whether such use is limited to 'the undertaker' by article 42.</p> <p>As the identity of persons falling within the second limb of the definition of 'the undertaker' in article 2 is not known at this stage, we suggest the more limited scope of article 42 should take priority and article 5 should be amended as shown. It is important this ambiguity is removed.</p> <p>We suggest the following amendment to article 5:</p> <p><i>5. (1) Subject to the provisions of this Order and to the requirements, the undertaker and any persons authorised by the undertaker may operate and use that part of the authorised development comprised in Works Nos. 1 to 7 inclusive for the purposes of a rail freight terminal and warehousing, any purposes for which such parts of the authorised development is designed and for any purposes ancillary to those purposes.</i></p> <p><i>(2) In accordance with article 42 only the undertaker may operate and use the railway comprised in the authorised Development.</i></p>

<p>Art 7 (Benefit of Order)</p>	<p>BDC maintains its position in relation to this provision as outlined in our Deadline 3 comments on the Applicant’s revised dDCO [REP3-096]. It is not appropriate for a power of entry onto private land to be given to a person whose identity is not known.</p> <p>The Applicant’s response to BDC’s deadline 3 submissions [REP4-120] has stated that there ‘may’ be a need for persons to exercise the powers under articles 22 and 23. Citing an event where the rail freight terminal operator needs to undertake protective works and / or the need for statutory undertakers to enter private land.</p> <p>Whilst the Applicant cites that compensation provisions are available, it is unknown if the authorised parties would have the financial capacity to pay this compensation if required.</p> <p>We do not consider the Applicant has provided ample justification based on both examples in light of the ability for the rail freight terminal operator to notify the undertaker of this requirement and for the agents of the undertaker to undertake the work themselves.</p> <p>The Applicant should be asked to provide a more substantive explanation for why entry onto land is required for unknown parties.</p> <p>As such BDC consider that article 7(2) should be amended to read as follows:</p> <p><i>2) Tritax Symmetry (Hinckley) Limited, has the sole benefit of the provisions of –</i></p> <p>a) Part 5 (powers of acquisition);</p> <p>b) article 22 (protective works to buildings); and</p> <p>c) article 23 (authority to survey and investigate the land),</p> <p><i>unless the Secretary of State consents to the transfer of the benefit of those provisions</i></p>
<p>Article 9 (Street Works)</p>	<p>BDC maintains its position in relation to this provision as outlined in our Deadline 3 comments on the Applicant’s revised dDCO [REP3-096]. The activities listed in article 9(1)(e) to (i) go well beyond the model provisions and should be deleted. The Applicant’s draft explanatory memorandum states that “<i>the inclusion of this Article in the draft DCO provides a statutory right to undertake street works within the specified streets and means that the undertaker will not need to obtain a separate licence</i></p>

	<p><i>from the street authority under the New Roads and Street Works Act 1991.”</i></p> <p>The drafting of this article represents a misunderstanding of the scope of ‘street works’ in the 1991 Act. The activities listed in art 9(1)(e) to (i) do not fall within the definition of ‘street works’ in section 48 of the 1991 Act and therefore do not require (and would not be capable of being consented by) a street works licence under the 1991 Act. To be clear, the deletions suggested by BDC would not prevent the applicant from being able to carry out the works listed in 9(1)(e) to (i). Alterations to streets are authorised by article 10. The point of the deletion from article 9 is that such works do not require (and would not be capable of being consented by) a street works licence under the 1991 Act.</p> <p>BDC consider the provision should be amended to read:</p> <p><i>9.—(1) The undertaker may for the purposes of the carrying out of the authorised development, enter on so much of any of the streets specified in Schedule 3 (streets subject to street works) as are within the Order limits and may—</i></p> <p><i>(a) break up or open the street, or any sewer, drain or tunnel under it;</i></p> <p><i>(b) tunnel or bore under the street;</i></p> <p><i>(c) place apparatus in the street;</i></p> <p><i>(d) maintain apparatus in the street or change its position; and</i></p> <p><i>(e) construct bridges and tunnels;</i></p> <p><i>(f) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;</i></p> <p><i>(g) alter the level or increase the width of such kerb, footway, cycle track or verge;</i></p> <p><i>(h) reduce the width of the carriageway of the street;</i></p> <p><i>(i) make and maintain crossovers and passing places; and</i></p> <p><i>(e) (f) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (d)(i).</i></p>
<p>Article 10 (Power to alter</p>	<p>The Applicant has amended article 10 in the manner sought by BDC as shown in the latest draft of the DCO [REP4-027].</p>

<p>layout, etc., of streets)</p>	
<p>Article 22 (Protective works to buildings and structures)</p>	<p>BDC maintains its position in relation to this article. The Applicant has not justified why it is necessary for this power of entry to apply outside the order limits.</p> <p>This power should be amended so that it can only be exercised (a) by Tritax Symmetry Limited; and (b) within the Order limits. As drafted the article provides a power of entry onto any land regardless of whether that land is within the Order limits. We do not consider the Applicant has provided sufficient justification for this.</p> <p>Whilst the article provides that compensation is payable by the undertaker for loss or damage caused by the exercise of this power, this liability is not subject to the guarantee in article 40. Whilst the Applicant’s DCO Explanatory Memorandum [REP4-030] cites The Boston Alternative Energy Facility Order 2023 and the Drax Power (Generating Stations) Order 2019 as precedent for this approach. Both orders include the specific amendment sought by BDC.</p> <p>The article should be amended as shown.</p> <p><i>22(1) - Subject to the provisions of this article, the undertaker may at its own expense carry out the protective works to any building or structure lying within the Order limits which may be affected by the authorised development as the undertaker considers necessary or expedient</i></p>
<p>Article 23 (Authority to survey and investigate the land)</p>	<p>BDC maintains its position in relation to this article as outlined at our Deadline 3 comments on the Applicant’s revised dDCO [REP3-096], the powers conferred by this article should be restricted to Tritax Symmetry (Hinckley) Limited. See the suggested amendment to article 7 which would restrict the exercise of Article 23 solely to Tritax Symmetry Limited. The liability to pay compensation under this article should also be subject to the guarantee in article 40 as per the suggested amendment to that provision.</p>
<p>Article 34 (Temporary use of land for carrying out the authorised development)</p>	<p>BDC maintains its position in relation this article as outlined at our Deadline 3 comments on the Applicant’s revised dDCO [REP3-096]. The Applicant wrongly asserts this is a standard provision. It is not. If there is a specific safety risk that would justify a power of entry onto private land without notice the Applicant should be asked to explain. An unspecified safety risk is not a sufficient justification for this power.</p> <p>Article 34(3) should be deleted.</p>
<p>Article 35 (Temporary</p>	<p>BDC maintains its position in relation to this article as outlined at our Deadline 3 comments on the Applicant’s revised dDCO</p>

<p>use of land to maintain the authorised development)</p>	<p>[REP3-096]. The Applicant wrongly asserts this is a standard provision. It is not. If there is a specific safety risk that would justify a power of entry onto private land without notice the Applicant should be asked to explain. An unspecified safety risk is not a sufficient justification for this power.</p> <p>Article 35(9) should be deleted for the same reasons given above in relation to article 34(3).</p>
<p>Article 40 (Guarantees in respect of payment of compensation)</p>	<p>BDC maintains its position in relation to this article as outlined at our Deadline 3 comments on the Applicant’s revised dDCO [REP3-096]. Without the amendments suggested by BDC the DCO provides a power of entry onto private land to a person whose identity is not known and whose financial standing may not be sufficient to meet any compensation liability that arises as a result.</p> <p>The guarantee in respect of compensation should be extended to all articles which impose an obligation to pay compensation.</p> <p>The article should be amended to read as follows:</p> <p><i>40.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any land unless it has first put in place a guarantee or alternative form of security approved by the relevant planning authority in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the relevant power in relation to that land.</i></p> <p><i>(2) The provisions are—</i></p> <ul style="list-style-type: none"> <i>(a) article 12 (temporary closure of streets)</i> <i>(b) article 22 (protective works to buildings);</i> <i>(c) article 23 (authority to survey and investigate the land)</i> <i>(d) article 25 (compulsory acquisition of land);</i> <i>(e) article 26 (compulsory acquisition of land - incorporation of the mineral code);</i> <i>(f) article 27 (compulsory acquisition of rights);</i> <i>(g) article 30 (private rights);</i> <i>(h) article 31 (rights under or over streets);</i> <i>(i) article 34 (temporary use of land for carrying out authorised development);</i>

	<p><i>(j) article 35 (temporary use of land for maintaining authorised development); and</i></p> <p><i>(k) article 36 (statutory undertakers).</i></p>
<p>Article 43 (Operational Land for the purposes of the 1990 Act)</p>	<p>BDC maintains its position in relation to this article as outlined at our Deadline 3 comments on the Applicant’s revised dDCO [REP3-096]. The ability to exercise permitted development rights should only apply to land that can properly be regarded as ‘operational land’ within the definition in s. 263 of the TCPA 1990 (i.e. land which is used for the purpose of carrying on their undertaking; and land in which an interest is held for that purpose). The Applicant should be asked to reconsider this point.</p>
<p>Art 45 (Defence to proceedings in respect of statutory nuisance)</p>	<p>BDC consider article 45 requires a minor amendment to clarify drafting. Article 45 should be amended as follows:</p> <p><i>45. – (1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (summary proceedings aggrieved by statutory nuisance)(a) in relation to a nuisance falling within section 79(1) of that Act (statutory nuisances and inspections therefore) no order may be made, and no fine may be imposed, under section 82(20)(b) of that Act if –</i></p> <p><i>(a) The defendant shows that the nuisance –</i></p> <ul style="list-style-type: none"> <i>i) Relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction) of the Control of Pollution Act 1974(c); or</i> <i>ii) Is a consequence of complying with a requirement or any other provision of this Order and that it cannot be reasonably be avoided; or</i> <p><i>(b) the nuisance is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or</i></p> <p><i>(c) it relates to premises used by the undertaker for the purposes of or in connection with the maintenance, operation of use of the authorised development and that the nuisance is attributable to the maintenance, operation or use of the authorised development which is being</i></p>

	<p><i>maintained, operated or used in compliance with a requirement or any other provision of this Order and that it cannot be reasonably avoided.</i></p> <p><i>(2) Section 61(9) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of the premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development</i></p>
<p>Schedule 2 Part 1 Requirement 8 (Travel Plan)</p>	<p>BDC is content with the proposed wording in the latest draft of the DCO [REP4-027].</p>
<p>Requirement 10 (Rail)</p>	<p>BDC maintains its position as set out in our Deadline 3 comments on the Applicant’s revised dDCO [REP3-096] and paragraphs 3.1 – 3.6 of it’s Written Representation [REP1-050]. BDC are still concerned about the uncertainty regarding highways related impacts and as such consider that the provision of rail from the outset is appropriate. Notwithstanding the above concerns BDC do acknowledge that the Applicant has provided market evidence regarding the uptake of rail freight.</p> <p>Without prejudice to BDC’s maintained position, BDC would be willing to accept an amendment to requirement 10 which enables the Applicant to occupy 105,000 sqm prior to the completion of the rail terminal whilst also providing added transparency to ensure that BDC and the other local authorities have visibility over how the rail terminal is used.</p> <p>BDC submit requirement 10 should be amended to read as follows:</p> <p><i>10. (1) No more than 105,000 square metres of warehouse (including ancillary office) floorspace to be provided as part of the authorise development may be occupied until the rail freight terminal which is capable of handling a minimum of four 775m trains per day and any associated infrastructure has been completed.</i></p> <p>5. <i>The undertaker must notify the local planning authority of the date of the first occupation of more than 105,000 square metres of warehousing within 28 days of such occupations occurring.</i></p> <p>6. <i>Following completion of the rail terminal works the undertaker must retain, manage and keep the rail terminal works available for use.</i></p> <p>7. <i>The undertaker must appoint a rail freight co-ordinator prior to the completion of the rail terminal works who must report to the local planning authority</i></p>

	<p><i>no less than once a quarter on the operation of the rail terminal when open including—</i></p> <ul style="list-style-type: none"> <i>a. the appointment of a rail operator to operate the rail terminal;</i> <i>b. the amount of rail freight usage of the rail terminal;</i> <i>c. the number of trains using the rail terminal;</i> <i>d. the warehousing receiving or sending goods through the rail terminal; and</i> <i>e. the amount of goods being received or sent through the rail terminal by freight</i> <p><i>8. The undertaker must maintain a person in the position of rail freight co-ordinator throughout the life of the authorised development unless otherwise agreed with the local planning authority.</i></p>
<p>Requirement 11 (Container stack height)</p>	<p>The wording of Requirement 11 submitted in the deadline 4 dDCO [REP4-028] is agreed as recorded in SOCG submitted at deadline 4 [REP4-134].</p>
<p>Requirement 16 (construction hours)</p>	<p>BDC is content with the amended wording submitted in the deadline 4 dDCO [REP4-028].</p>
<p>Requirement 19 (Landscape Ecological Management Plan)</p>	<p>The wording of Requirement 19 submitted in the deadline 4 dDCO [REP4-028] is agreed as recorded in SOCG submitted at deadline 4 [REP4-134].</p>
<p>Requirement 20 (Ecological Mitigation Management Plan)</p>	<p>BDC maintain it's position as outlined in the SOCG [REP4-134] that the Ecological Mitigation and Management Plan must provide continuity of habitat creation through the phases of development to ensure that habitat types that are lost as a result of a phase are created as part of the landscape provisions associated with that phase. We do not consider that because the majority of habitat loss/creation will occur in the initial phases of the development, that it is likely that not every phase will be able to deliver landscape provisions which equal habitat losses for that particular phase. BDC seek justification for the Applicant's position.</p> <p>BDC seek that requirement 20 is amended to read:</p> <p><i>20 – (1) Subject to paragraph (3) no phase is to commence until a detailed ecological mitigation and management plan for that phase has been submitted to and approved in writing by the relevant planning authority. The detailed ecological mitigation and management plan must be in accordance with the principles</i></p>

	<p><i>set out in the ecological mitigation and management plan and must —</i></p> <p><i>(a) apply a precautionary approach to working methodologies and habitat creation for reptiles and amphibians;</i></p> <p><i>(b) ensure that mitigation and compensation measures have demonstrable and measurable outcomes, which are monitored and reported on; and</i></p> <p><i>(c) create alternative habitats to an agreed form to compensate for the loss of irreplaceable habitats.</i></p> <p><i>(d) provide continuity of habitat creation through the phases of development to ensure that habitat types that are lost as a result of a phase are created as part of the landscape provisions associated with that phase.</i></p>
<p>Requirement 21 (Landscape Scheme)</p>	<p>The wording of Requirement 21 submitted in the deadline 4 dDCO [REP4-028] is agreed as recorded in SOCG submitted at deadline 4 [REP4-134].</p>
<p>Requirement 31 (Lighting)</p>	<p>The wording of Requirement 31 submitted in the deadline 4 dDCO [REP4-028] is agreed as recorded in SOCG submitted at deadline 4 [REP4-134].</p>
<p>Schedule 2, Part 2, Paragraph 5 (Fees)</p>	<p>BDC is not currently content with the drafting of the fees provision. The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 do not expressly apply to applications for the approval of matters under DCO requirements. It is therefore unclear exactly how fees will be calculated when applying those regulations. This creates significant scope for disagreement. To avoid this, BDC proposes the following amendment which follows the approach taken in The Northampton Gateway Rail Freight Interchange Order 2019:</p> <p><i>5. (1) Where an application is made to the discharging authority for consent, agreement or approval in respect of a requirement, other than where the parties have agreed otherwise, the fee that would have been payable had the fee been determined under the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(b), as though the application were a reserved matter application, is to be paid to that authority.</i></p>

Written summary of BDC's oral case for Issue Specific Hearing 6 (ISH6) (including response to Action Point 132)

1. Introduction

- 1.1. This document contains a summary of Blaby District Council's (BDC) oral submissions at Issue Specific Hearing 6 (ISH6) held on 24 January 2024.
- 1.2. Where the comment is a post-hearing comment submitted by BDC, this is indicated. This document uses the headings for each item in the agenda published for Issue Specific Hearing 6 [[EV12-001](#)] on 17 January 2024 by the Examining Authority.
- 1.3. BDC is the planning authority for Blaby District and has a statutory function in the geographic area of the Proposed Hinckley National Rail Freight Interchange (the Proposed Development), promoted by Tritax Symmetry Limited (the Applicant).
- 1.4. BDC was represented at ISH6 by Duncan O'Connor, Partner, BDB Pitmans LLP (DO), DO introduced the following BDC representatives to the Examining Authority (ExA):
 - 1.4.1. Edward Stacey, Major Schemes Officer, BDC (ES);
 - 1.4.2. Neil Forsdyke, Air Quality and Noise consultant, M-EC Development Technical Consultants Limited (NF);

2. Agenda Item 2 – Purpose of this Hearing

- 2.1. BDC did not make a submission under this agenda item.

3. Agenda Item 3 – Road Highway Network

- 3.1. DO outlined BDC's position regarding enforcement of the HGV Route Management Plan and Strategy [[REP4-113](#)]. DO noted that paragraphs 5.37 and 5.38 of the HGV strategy states:

Blaby District Council has the power to take Enforcement Action against any landowner, tenant or other person(s)/company responsible or with an interest in a breach in the HGV strategy. The tools available are set out in the Council's Local Enforcement Plan and any enforcement investigations will follow the process set out in this Local Enforcement Plan.

The decision on whether to take planning enforcement action will be based on the planning harm caused by any breach of the HGV Routing Strategy. Consequently, notification of all breaches will be shared with the Blaby District Council Enforcement Team in line with the notification procedure in paragraphs 5.7 to 5.10 to assist with any enforcement investigations. These notifications will supplement any other evidence provided directly to the

Council's Planning Enforcement Team by complainants such as members of the Public, ward members, parish councils, or Council employees etc.

- 3.2. DO submitted that Requirement 18 of the draft DCO requires compliance with the HGV Route Management Strategy and Plan. However, the HGV Route Management Strategy and Plan does not state whether an HGV's travel through a 'prohibited' route constitutes non-compliance with the HGV Route Management Strategy and Plan. Therefore, BDC submitted that as drafted there may be instances where HGV's drive through the prohibited routes but could still be compliant with the plan. Therefore, in order to have a robust enforcement role, BDC consider the HGV Route Management Strategy and Plan should be amended to specifically state that HGV travel via a prohibited route (bar certain exceptions) would constitute non-compliance under the HGV Route Management Strategy and Plan.
- 3.3. ES noted that there is nothing presently in the s. 106 Agreement that would contribute resourcing to BDC's enforcement role of the HGV Route Management Strategy and Plan. BDC would welcome working with the Applicant to agree to a contribution towards BDC's enforcement role under the HGV Route Management Strategy and Plan.

Post Hearing Notes

- 3.4. BDC consider this gives a misleading impression of BDC's role under the HGV Strategy and its ability to take enforcement action where HGVs are using routes which are prohibited under the Strategy.
- 3.5. Paragraphs 5.37 and 5.38 cited above imply that BDC could use the enforcement powers available to local planning authorities in response to notifications it would receive that HGVs have been using the prohibited routes. This is not accurate and overstates the enforcement role that BDC has in the Strategy as currently drafted.
- 3.6. The enforcement 'tools' available in BDC's Local Enforcement Policy which are referred to in paragraph 5.37 are only available where a breach of planning control has occurred as per s. 171A of the Town and Country Planning Act 1990. These tools would not be available to BDC in response to notifications that HGVs have been travelling to and from the site using the 'prohibited' routes because this would not constitute a breach of planning control for the purposes of the 1990 Act.
- 3.7. BDC would only have the ability to take enforcement action where the Applicant or the occupiers of the site have failed to comply with HGV Strategy. Such a non-compliance would constitute a breach of Requirement 18 (HGV route management plan and strategy) of the dDCO and therefore the enforcement provisions in Part 8 of the Planning Act 2008 would come into play. In particular, a failure to comply with the Strategy would constitute an offence under s. 161 of the Planning Act 2008 and BDC as the local planning authority would have certain powers available to it under Part 8.

- 3.8. BDC's overriding concern is that compliance with the HGV Strategy (as currently drafted) will not prevent unacceptable numbers of HGVs from using the 'prohibited' routes. The Strategy is intended to provide a means by which movements in excess of certain daily trigger thresholds would be identified. However, the consequence of such a trigger being breached is simply that internal management measures will be implemented on site, or where the higher thresholds are breached the matter is referred to the Strategy Review Panel – which includes BDC. The Panel then meets to discuss and consider what changes may be needed to the Strategy (see para. 5.56 of the draft Strategy).
- 3.9. Provided these procedures were followed, there would have been no breach of the Strategy or Requirement 18 which would be enforceable by BDC as the local planning authority. In other words, the remedy for breaches of the daily trigger thresholds is for the Strategy to be reviewed. There is no mechanism or legal basis for BDC to take enforcement action.
- 3.10. BDC is not satisfied with the HGV Strategy as currently drafted and considers it does not provide sufficiently robust mechanisms to prevent unacceptable numbers of HGVs from using the prohibited routes. BDC is considering this matter with the other local authorities and will make further submissions on its recommendations for how these defects should be remedied.
- 3.11. The above also constitutes BDC's response to **Action Point 132** from this hearing where it was asked "to provide written clarification in terms of its concerns in relation to its role in enforcing HGV routing breaches, should these still exist following further discussions with the Applicant on this point." In addition, BDC lends support to Hinckley and Bosworth Borough Council's (HBBC) Deadline 5 submission on the HGV Route Management Plan and Strategy [REP4-113] in its request that the HGV Route Management Strategy and Plan be amended to include a section on Undesirable or Illegal HGV parking in HBBC and BDC administrative areas. HGVs from the site would be able to access and cause such problems in some settlements within Blaby district such as Stoney Stanton, Huncote, Croft, Leicester Forest East, Kirby Muxloe and Braunstone.

4. Agenda Item 4 - Rail Connectivity:

- 4.1. BDC made no submissions on this agenda item.

5. Agenda Item 5 – Sustainable Transport:

- 5.1. DO noted that whilst BDC does not have a function as a highway authority, it is concerned with traffic impacts and the Applicant's provision of sustainable transport measures via the Sustainable Transport Strategy and Sitewide Framework Travel Plan.

- 5.2. BDC's overall concern is to ensure that the wording in the control documents that secure the sustainable transport measures provide clear obligations that can be complied with.
- 5.3. **Post Hearing Note:** BDC will be working with the other Local Planning Authorities and the Applicant to ensure that the Sustainable Transport Strategy and Sitewide Framework Travel Plan provide demonstrable, enforceable obligations.

6. Agenda Item 6 – Noise

- 6.1. BDC and the Applicant have come to agreement on various aspects of the noise impact assessment and mitigation as detailed in the Statement of Common Ground.
- 6.2. NF responded to a question from the ExA regarding BDC's position on the methodology of the noise impact assessment. NF noted that BDC were content with the use of Design Manual for Roads and Bridges (DMRB) guidance (LA111 Noise and Vibration, May 2020¹), specifically, the short and long-term impact descriptors for the purposes of assessing the significance of impact. However, NF submitted that the Applicant should follow the methodology outlined in paragraphs 7.85 and 7.86 of the Institute for Environmental Management and Assessment (IEMA) guidance (version 1.2, November 2014)² which requires cumulative impact to also be considered. NF stated that following the IEMA guidance would require the Applicant to remove the committed development from the future baseline and add it to the cumulative impact, BDC consider this will enable for a better understanding of the overall impact of the Proposal in conjunction with the committed development.
- 6.3. **Post Hearing Note:** Paragraph 7.85 of the attached IEMA guidelines defines cumulative effects as “those that result from additive impacts caused by other past, present or reasonably foreseeable actions together with the plan, programme or project itself and synergistic effects (in-combination) which arise from the reaction between impacts of a development plan, programme or project on different aspects of the environment”
- 6.4. **Post Hearing Note:** Paragraph 7.86 goes on to state that “There can be situations when separate, independent proposals are put forward at about the same time and which are going to impact on the same receptors. The various proposals need to be assessed independently, but at some point, there should be liaison between the projects to consider the cumulative impact on the sensitive receptors of all the proposals. The cumulative impact is likely to be of concern for the local planning authority and, of course, those affected by the proposals are unlikely to differentiate between the noise from the different

¹ <https://www.standardsforhighways.co.uk/tses/attachments/cc8cfcf7-c235-4052-8d32-d5398796b364?inline=true>

² <https://www.iema.net/download-document/236678>

developments. They are simply going to perceive the total change to their noise environment, should all the developments be implemented.”

- 6.5. NF noted that it was for the reason outlined above that BDC have requested from the Applicant sensitivity testing of the cumulative noise impact of the Proposal following the IEMA guidance outlined above. BDC will continue to liaise with the Applicant on this issue with an aim to come to agreement by deadline 5.
- 6.6. **Post Hearing Note:** The Applicant has not provided any update on the progress of the sensitivity test referenced above since ISH6.
- 6.7. NF noted that the Applicant had complied with BDC’s request for additional information regarding gantry cranes. However, further information was requested regarding the proposed mitigation measures for maximum impacts associated with soft docking. BDC still await this information from the Applicant.
- 6.8. ES responded to a query regarding BDC’s position on the proposed provision of acoustic barriers. BDC submitted that there is a variance between the width of the hedge indicated on the drawings and the existing hedges on site, BDC consider these inconsistencies may require the existing hedgerows and hedgerow trees to be removed.
- 6.9. ES noted that BDC were in agreement with the Applicant regarding the baseline for offsite rail movements.
- 6.10. **Post Hearing Note:** An important note of clarification is that BDC still consider that the scheme will have a detrimental effect on receptors close to the site given the subjective nature of noise coupled with the fact that the scheme will be audible. However, subject to the verification of the proposed mitigation measures as outlined within the latest SoCG on noise and vibration (and subject to the outcomes of the sensitivity test outlined above), BDC are content that the Applicant’s assessment approach and conclusions are in line with current guidance.

