

Tritax Symmetry (Hinckley) Limited

## **HINCKLEY NATIONAL RAIL FREIGHT INTERCHANGE**

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

Project reference TR050007

### **Applicant's Response to Deadline 4 Submissions [part 4 - WCC]**

Document reference: 18.17

Revision: 01

**9 February 2024**

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Planning Act 2008

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

**Applicant's Response to Warwickshire County Council Deadline 2 Submission - Comments on any additional submissions received by Deadline 1 Tuesday 24 October 2023**

Extract	Warwickshire County Council Comment	Applicant's Response
<p><b>Part 3 – Streets</b>  <b>Traffic regulation</b></p> <p>(2) The undertaker shall not exercise the powers in paragraph (1) unless it has—</p> <p>(a) given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the relevant traffic authority; and</p> <p>(b) advertised its intention in such manner as the relevant traffic authority may specify in writing within <b>7 days</b> of the relevant traffic authority's receipt of notice of the undertaker's intention under sub-paragraph (a).</p> <p>(6) If the relevant traffic authority fails to notify the undertaker of its decision within 42 days of receiving an application for consent under paragraph (3) that is accompanied by all relevant information the</p>	<p>7 days is considered to be too short a timescale for officers to respond within, 14 days suggested</p> <p>The conventional Traffic Regulation Order process makes provision for objections to be received, considered and the TRO to be determined or a modification to be considered. The draft DCO does not appear to allow for this, and the details of any future TROs associated with the proposal are unspecified – this could lead to residents/businesses being impacted.</p>	<p>The Applicant understands this comment relates to article 18.</p> <p>This appears to be a misunderstanding of the provision. The 7 day period is not for the officer to respond, it is the period in which the undertaker must advertise its intention to undertake any of the traffic regulation noted in article 18(1), as may be specified by the officer following their receipt of the notice under article 18(1) - the undertaker is required to give the officer 4 weeks notice pursuant to article 18(1).</p> <p>The article requires that the undertaker obtains consent of the relevant traffic authority and is clear that the consent may be subject to reasonable conditions. The Council would therefore be entitled to impose reasonable conditions to mitigate impacts on residents/businesses if required.</p> <p>The drafting of this article is consistent with the wording contained in the Northampton Gateway Rail Freight Interchange Order 2019 (S.I. 2019</p>

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<p>relevant traffic authority shall be deemed to have given consent</p>		<p>1358), West Midlands Interchange Rail Freight Interchange Order 2020 (S.I. 2020 511), as made.</p> <p>The Applicant does not consider that any amendments are required to the article as the drafting has been accepted and applied elsewhere and the Applicant does not consider it unreasonable that the authorised development is able to proceed with the ability to impose traffic regulation subject to the safeguards and conditions in the Order.</p>
<p>SCHEDULE 2 REQUIREMENTS PART 1 REQUIREMENTS <b>Design and phasing of highway works</b> 5.—(1) The undertaker must complete the highway works identified in columns (1) and (2) of the following table by no later stage than the stage of the authorised development as set out in column</p> <p>(3) of that table below or such alternative later stage as agreed by the relevant body or bodies identified in column (4).</p>	<p>In the table, Work No. 16, the Relevant Body in column 4 needs to add National Highways and Warwickshire County Council</p>	<p>This is agreed. The Applicant will update the dDCO ahead of Deadline 7.</p>
<p>PART 2 PROCEDURE FOR APPROVALS ETC UNDER REQUIREMENTS <b>Further information</b></p>		<p>The provisions of Part 2 follow the PINS Advice Note 15 and whilst it is understood and noted that the Advice Note is dated 2018, the Applicant does</p>

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<p>1.—(1) In relation to any application to which this Schedule applies, the discharging authority has the right to request such further information from the undertaker as is necessary to enable it to consider the application.</p> <p>(2) If the discharging authority considers such further information to be necessary it must, within 10 working days of receipt of the application, notify the undertaker in writing specifying the further information required.</p> <p>(3) If the discharging authority does not give such notification as specified in subparagraph (2) it is to be deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.</p>	<p>10 working days is not considered sufficient time if the applicant has submitted an application for discharge to the Local Planning Authority, and they in turn have to consult with another authority eg. Highway or Flood Authorities. LPA's usually give a minimum of 21 days.</p>	<p>not consider it reasonable that it be held to a different standard to other consented Orders in the absence of revised proposed standard drafting.</p> <p>It must be remembered that the provisions of the DCO are drafted in such a manner to enable the delivery of a nationally significant infrastructure project, and that timeframes for seeking further detailed consents or approvals from any third party, statutory or otherwise, cannot be allowed to delay or stall the delivery of such a project. The DCO needs therefore to build in certainty in terms of timescales for approvals to ensure that the extensive work to be done to deliver the development can get underway.</p> <p>The drafting and the timeframe is consistent with the wording contained in the West Midlands Interchange Rail Freight Interchange Order 2020 (S.I. 2020 511), as made, and the wording in Appendix 1 in PINS Advice Note 15: Drafting the Development Consent Order.</p> <p>The Applicant does not consider that any amendments are required to the article as the drafting has been accepted and applied elsewhere.</p>

Extract	Warwickshire County Council Comment	Applicant's Response
<p>PART 3 FOR THE PROTECTION OF THE LOCAL HIGHWAY AUTHORITY</p> <p><b>Interpretation</b></p> <p>2.—(1) The terms used in this Part of this Schedule are as defined in article 2 OFFICIAL (interpretation) of this Order save where inconsistent with sub-paragraph (2) which shall prevail; and</p> <p>(2) In this Part of this Schedule— “as built information” means one digital copy of the following information where applicable to the phase in question— (e) method statements for works carried out;</p> <p>“the bond sum” means the sum equal to [ ]% of all the costs of the carrying out of the phase of the county highway works concerned</p> <p>“detailed design information” means drawings, specifications and other information which must be in accordance with the....</p>	<p>Should be expanded to include details of how dust, noise, mud/debris and other nuisance will be managed during highway works.</p> <p>WCC require 200% of Estimated Costs of the Works</p> <p>In addition WCC require applications for street works permits, construction contract and collateral warranty (completed), and certificate of insurance before commencement</p>	<p>The Applicant notes that WCC’s comments related to a much earlier version of the dDCO since which time considerable discussion and progress has been made on the protective provisions for the benefit of WCC.</p> <p>As set out in the Applicant’s update relating to protective provisions [Appendix A (protective provisions table) to the Applicant’s response to Written Question [Doc ref: 18.6] submitted at Deadline 5, the Applicant and Warwickshire County Council (WCC) have negotiated and agreed, save for deemed approval provisions, protective provisions benefitting WCC.</p> <p>The Applicant therefore believes these comments have been superseded by the final version protective provisions negotiated with WCC.</p> <p>The final version protective provisions will be included in the dDCO to be submitted at Deadline 7.</p>

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<p>(q) pre- construction health and safety information where relevant to the phase concerned</p> <p><b>Prior approvals and security</b></p> <p>3.—(1) No work must commence on any phase of the county highway works until the detailed design information and a programme of works in respect of that phase has been submitted to and approved by the local highway authority.</p>	<p>To be added to the definitions: “desirable changes” means such changes to the county highway works as considered desirable (as opposed to necessary) by the county highway authority for the satisfactory completion and functioning of the county highway works “necessary changes” means such changes to the county highway works as considered necessary by the local highway authority by law, by virtue of government advice or guidance, for the satisfactory completion and functioning of the county highway works, as required by any Road Safety Audit or to remedy any breach by the undertaker.</p> <p>WCC do not think that there will be a need for a TRO but without the design and Traffic Management details this is not certain at this stage. WCC standard s278 requires developers to give 12 weeks notice of any TTRO requirement and to pay all fees in connection with it.</p>	

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<p>(5) No work must commence on any phase of the county highway works until a scheme of traffic management provisions have been agreed with the local highway authority</p> <p>(8) No works must commence on any phase of the county highway works until the undertaker has provided confirmation of ownership to the local highway authority for any land which is to be dedicated as highway following completion of the county highway works.</p>	<p>Alternative wording: (5) No work must commence on any phase of the county highway works until a scheme of traffic management has been submitted by the undertaker and approved by the local highway authority for that phase</p> <p>(8) No works must commence on any phase of the county highway works until the undertaker has provided confirmation of ownership to the local highway authority and to the local highway authority's satisfaction for any land which is to be dedicated as highway following completion of the county highway works. (9) No works must commence on any phase of the county highway works until the undertaker has obtained all necessary consents and approvals (10) No works must commence on any phase of the county highway works until the undertaker has provided a completed collateral warranty to the local highway authority in accordance with paragraph 12 of this Part of this Schedule (11) No works must commence on any phase of the county highway works until the undertaker has provided</p>	

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<p><b>Carrying out of works</b></p> <p>4.—(1) The undertaker must prior to commencement of each phase of the county highway works give the local highway authority 14 days' notice in writing of the date on which that phase will start unless otherwise agreed with the local highway authority.</p> <p>(2) The undertaker must give the local highway authority 14 days' notice of the road space booking required for the carrying out of each phase of the county highway works.</p>	<p>a completed construction contract for that phase of the highway works to the local highway authority. (12) No works must commence on any phase of the county highway works until the undertaker has provided a copy of the certificate of insurance to the local highway authority obtained in accordance with paragraph 10 of this Part of this Schedule</p> <p>14 days notice is not considered sufficient notice, suggest 28 days WCC's usual process would be to certify that the A) programme B) the street works permit number C) the completed construction contracts and completed collateral warranty D) Stage 2 RSA E) H &amp; S plan F) certificate of insurance cover G) any other information our authorised officer may require</p> <p>Alternative wording: The undertaker must comply with the local highway authority's usual road space booking procedures prior to and during the carrying out of out of each phase of the</p>	



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<p>(3) Each phase of the county highway works must be carried out to the satisfaction of the local highway authority in accordance with—  ..... (c) such approvals or requirements of the local authority that are required by the provisions of paragraph 3 of this Part of this Schedule to be in place prior to the relevant phase of the county highway works being undertaken; and</p> <p>(4) The undertaker must permit and require the contractor to permit at all reasonable times persons authorised by the local highway authority (whose identity must have been previously notified to the undertaker by the local highway authority) to gain access to the land upon which the county highway works are being carried out for the purposes of inspection and supervision and the undertaker must provide to the local highway authority contact details of the nominated persons with whom the local highway</p>	<p>county highway works and no county highway works for which a road space booking is required shall commence without a road space booking first having been secured such road space booking not to be unreasonably withheld or delayed.</p> <p>At (c) suggest insert local 'highway' authority</p> <p>WCC's standard inspection clauses requires the developer to allow free access to any part of the highway works for purposes of inspecting works and all materials used (including provision for testing of materials) during the works and the maintenance period. Also includes requirement not to cover up or put out of view works without approval</p>	

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<p>authority should liaise during the carrying out of the county highway works.</p> <p>(5) At any time during the carrying out of the county highway works the nominated persons must act upon any reasonable request made by the local highway authority in relation to the carrying out of the county highway works as soon as practicable following such request being made to the nominated persons or the undertakers obligations in this Order.</p>	<p>of LHA Authorised Officer and give 5 days written notice when foundations or works are ready for examination and allow Authorised Officer to require developer to open up or uncover works at their cost. These provisions need to be included</p> <p>WCC need to be able to require necessary changes (at undertakers expense) where required by law, guidance or necessary for the safe operation of the highway. Also need power to make desirable changes by agreement with the undertaker. Alternative wording: (5) The local highway authority may from time to time order such changes to the County Highway Works as it considers necessary. Any such changes to the county highways works are hereinafter called "necessary changes" and the undertaker shall ensure that such necessary changes are implemented by the nominated person via the construction contract.</p> <p>Additional: (6) The local highway authority may from time to time request</p>	

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<p><b>Payments</b></p> <p>5.—(1) The undertaker must fund the whole of the cost of the county highway works and all costs incidental to the county highway works and must also pay to the local highway authority in respect of each phase of the county highway works a sum equal to the whole of any costs and expenses which the local highway authority incur including costs and expenses for using external staff and resources as well as costs and expenses of using in house staff and resources in relation to the county highway works and arising out of them and their implementation including—</p>	<p>such changes to the county highway works as it considers desirable (as opposed to necessary) for the satisfactory completion and functioning of the county highway works in consultation and agreement with the undertaker provided always that the local highway authority's decision as to whether changes are necessary or desirable shall be final.</p> <p>Alternative wording: 5.—(1) The undertaker must fund the whole of the cost of the county highway works and all costs incidental to the county highway works including any necessary or desirable changes and must also pay to the local highway authority in respect of each phase of the county highway works a sum equal to the whole of any costs and expenses which the local highway authority incur including costs and expenses for using external staff and resources as well as costs and expenses of using in house staff and resources in relation to the county highway works and arising out of them and their</p>	

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<p>(5) Within 91 days of the issue of the final certificate for each phase of the county highway works pursuant to paragraph 7 of this Part of this Schedule the local highway authority must give the undertaker a final account of the costs referred to in sub-paragraph (1) and within 28 days from the expiry of the 91 day period—</p> <p>(6) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the party to whom it was due interest at 1% above the rate payable in respect of compensation under Section 32 (rate of interest after entry on land) of the 1961 Act for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.</p>	<p>implementation including— ..... (d) all legal and administrative costs in relation to (a) and (b) and (c) above, together comprising “the estimated costs”.</p> <p>WCC would not issue a final certificate until all fees have been paid, alternative wording: (5) Prior to the issue of the final certificate for each phase of the county highway works pursuant to paragraph 7 of this Part of this Schedule the local highway authority must give the undertaker a final account of the costs referred to in sub-paragraph (1) and within 28 days from the issue of the final account –</p> <p>Clarification on this rate is required, WCC ask for 4% above Bank of England base rate</p>	

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<p><b>Provisional certificate and defects and maintenance period</b></p> <p>6.—(1) As soon as each phase of the county highway works has been completed and— .....the local highway authority must immediately issue a provisional certificate of completion in respect of that phase of the county highway works.</p> <p><b>Final certificate</b></p> <p>(2) If the provisions of sub-paragraph (1) are satisfied the local highway authority must issue a final certificate for the phase of the county highway works concerned, such certificate not to be unreasonably withheld or delayed</p>	<p>Alternative wording: 6.—(1) As soon as each phase of the county highway works has been completed and inspected by the county highways authority— Immediately is impractical, alternative wording: the local highway authority must issue a provisional certificate of completion in respect of that phase of the county highway works within 10 working days of receipt of a written application Add additional clause: The undertaker must maintain the county highway works at its own cost and to the satisfaction of the local highway authority during a period of 12 months from the date of the provisional certificate in respect of that phase or the completion of any defects arising during that period</p> <p>Alternative wording: (2) If the provisions of sub-paragraph (1) are satisfied and all</p>	

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<p>Security (2) Each bond sum shall be progressively reduced as follows— (a) on receipt of written confirmation (including receipt of receipted invoices evidencing payments made by the undertaker to the contractors) from the undertaker of the payments made from time to time to the contractor the local highway authority must in writing authorise the reduction of the bond sum by such proportion of the bond sum as amounts to 80% of those payments provided that an evaluation of the county highway works completed and remaining has been carried out by the undertaker and audited and agreed by the local highway authority to ensure that the stage of completion of the works is relative to the payments made by the undertaker to the contractors. The local highway authority will only be required to provide the said authorisation should it be satisfied that the monies remaining secured by the bond sum will be sufficient to cover all remaining costs and liabilities anticipated to be incurred Immediately is impractical, alternative</p>	<p>fees due to the local highway authority under paragraph 5 of this Part of this Schedule the local highway authority must issue a final certificate for the phase of the county highway works concerned, such certificate not to be unreasonably withheld or delayed.</p> <p>WCC reduce to 50% initially</p>	

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<p>wording: the local highway authority must issue a provisional certificate of completion in respect of that phase of the county highway works within 10 working days of receipt of a written application Add additional clause: The undertaker must maintain the county highway works at its own cost and to the satisfaction of the local highway authority during a period of 12 months from the date of the provisional certificate in respect of that phase or the completion of any defects arising during that period. Alternative wording: (2) If the provisions of sub-paragraph (1) are satisfied and all fees due to the local highway authority under paragraph 5 of this Part of this Schedule the local highway authority must issue a final certificate for the phase of the county highway works concerned, such certificate not to be unreasonably withheld or delayed. WCC reduce to 50% initially OFFICIAL in completing the county highway works plus an additional 10%;</p> <p>(b) within 20 working days of completion of each phase of the county highway works (as evidenced by the issuing of the provisional certificate in respect of that phase pursuant</p>	<p>(b) Following completion of each phase of the county highway works (as evidenced by the issuing of the provisional certificate in respect of that phase pursuant to paragraph 6(1) of this</p>	

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<p>to paragraph 6(1) of this Part of this Schedule) the local highway authority must in writing release the bond provider from its obligations in respect of 80% of the bond sum relating to that phase save insofar as any claim or claims have been made against the bond and/or liability on its part has arisen prior to that date; and</p> <p>(c) within 20 working days of the issue of the final certificate for each phase of the county highway works referred to in paragraph 7 of this Part of this Schedule the local highway authority must in writing release the bond provider from all its obligations in respect of the bond relating to that phase save insofar as any claim or claims have been made against the bond or liability on its part has arisen prior to that date.</p> <p><b>Commuted sums</b></p> <p>(2) The rates to be applied in calculating the commuted sums payable must be calculated in accordance with Leicestershire County Council's commuted sum calculator or as otherwise agreed between the undertaker</p>	<p>Part of this Schedule) the local highway authority shall on written request from the undertaker release the bond provider from its obligations in respect of 50% of the bond sum relating to that phase save insofar as any claim or claims have been made against the bond and/or liability on its part has arisen prior to that date; and</p> <p>(c) Following the issue of the final certificate for each phase of the county highway works referred to in paragraph 7 of this Part of this Schedule the local highway authority shall on written request release the bond provider from all its obligations in respect of the bond relating to that phase save insofar as any claim or claims have been made against the bond or liability on its part has arisen prior to that date.</p> <p>Insert 'relevant' before local highway authority</p>	



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<p>and the local highway authority prior to commencement of work on any phase.</p> <p><b>Indemnification</b></p> <p>11. —(1) The undertaker must in relation to the carrying out of the county highway works take such precautions for the protection of the public and private interest as would be incumbent upon it if it were the highway authority and must indemnify the local highway authority from and against all costs expenses damages losses and liabilities arising from or in connection with or ancillary to any claim demand action or proceedings resulting from the design and carrying out of the county highway works; provided that—</p> <p>(a) the foregoing indemnity shall not extend to any costs expenses liabilities and damages caused by or arising out of the neglect or default of the local highway authority or its officers servants agents or contractors or any person or body for whom it is responsible;</p> <p>(b) the local highway authority must notify the undertaker upon receipt of any claim; and</p>	<p>This section should specifically include Land Compensation Act 1973 claims</p>	

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<p>(c) the local highway authority must following the acceptance of any claim notify the quantum thereof to the undertaker in writing and the undertaker must within 14 days of the receipt of such notification pay to the local highway authority the amount specified as the quantum of such claim.</p> <p><b>Warranties</b></p> <p>12. The undertaker must procure warranties from the contractor and designer of each phase to the effect that all reasonable skill care and due diligence will be exercised in designing and constructing that phase including the selection of materials, goods, equipment and plant such warranties to be provided to the local highway authority before that phase commences</p> <p><b>Approvals</b></p> <p>13. —(1) Any approvals, certificates, consents or agreements required or sought from or with the local highway authority pursuant to</p>	<p>Alternative wording: 12. The undertaker must procure warranties from the contractor and designer of each phase to the effect that all reasonable skill care and due diligence will be exercised in designing and constructing that phase including the selection of materials, goods, equipment and plant and that any patent or latent damage or defect in the county highway works shall be remedied and made good for a period of 12 years from the issue of the final certificate such warranties to be provided to the local highway authority before that phase commences.</p> <p>Alternative wording:</p> <p>13.—(1) Any approvals, certificates, consents or agreements required or sought from or with the local highway authority pursuant to the provisions of</p>	

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<p>the provisions of this Part of this Schedule must not be unreasonably withheld or delayed and must be given in writing save that any such approvals, certificates, consents or agreements shall be deemed to have been given if it is neither given nor refused within 42 days of the specified day.</p> <p>(2) In this paragraph "specified day" means—</p> <p>(a) the day on which particulars of the matter are submitted to the local highway authority under the provisions of this Schedule; or</p> <p>(b) the day on which the undertaker provides the local highway authority with any further particulars of the matter that have been reasonably requested by the local highway authority or within 28 days of the date in sub-paragraph (a), Alternative wording: 12. The undertaker must procure warranties from the contractor and designer of each phase to the effect that all reasonable skill care and due diligence will be exercised in designing and constructing that phase including the selection of materials, goods, equipment and plant and that any patent or latent damage or defect in the county highway works shall be remedied and made good for a period of 12 years from the issue</p>	<p>this Part of this Schedule must not be unreasonably withheld or delayed and must be given in writing</p>	

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<p>of the final certificate such warranties to be provided to the local highway authority before that phase commences. Alternative wording: 13.—(1) Any approvals, certificates, consents or agreements required or sought from or with the local highway authority pursuant to the provisions of this Part of this Schedule must not be unreasonably withheld or delayed and must be given in writing OFFICIAL whichever is the later</p>		
<p>Matter 5, Definitions, page 15 and Matter 36 Protective Provisions page 45 . The Applicants confirmation that it is committed to including protective provisions in the dDCO based on standard form s278 agreements is welcomed. Warwickshire County Council would also want the Applicant to consider Warwickshire County Council's standard s278 agreement in respect of the protective provisions</p>		
<p><b>Schedule 14 Miscellaneous Controls paragraphs 2 and 3:</b></p>		
<p>Section 167 Highways Act 1980 – Powers relating to retaining walls near streets.</p>	<p>Section 167 allows the relevant local authority to approve a retaining wall to which section 167 applies and serve notice to require works to be carried out to obviate any danger. WCC have not seen sufficient detail in terms of the</p>	<p>The Applicant sets out in paragraph 5.205 of the Explanatory Memorandum [Doc ref 3.2B; REP4-029] its reasons and justification for disapplying the statutory provision in Section 167 the Highways Act 1980.</p>

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	<p>retaining walls that will form part of the development to conclude whether the disapplication of s167 is appropriate. Whilst it is acknowledged that approval via the DCO is likely to be appropriate, as highway authority WCC would want to ensure that protective provisions were sufficient to deal with a dangerous structure.</p>	<p>The provision is disapplied because the details and provisions are dealt with in the dDCO (including the protective provisions) and its associated plans. There are proposed retaining walls as part of the development, for example as part of the junction 2 southbound slip road works near the existing NGET pylon. The DCO will deal with the necessary approvals in this regard and the Applicant considers it prudent to disapply the statutory provision to ensure that only one approval mechanism is required.</p> <p>The Applicant does not believe this provision is relevant to WCC in any event.</p>
<p>Section 56, Section 56A, Section 58, Section 61, Section 62, Section 63 Schedule 3A New Roads and Streetworks Act 1991 .</p>	<p>These provisions allow relevant highway authorities to manage their network to ensure that it reduces delay and safeguards the travelling public. Warwickshire County Council's concern is that the timing of street works and the placing of apparatus cannot be adequately dealt with via the DCO. It is considered important that the relevant highway authority retains control over the management of its network.</p>	<p>The Applicant does not agree that the timing of street works and the placing of apparatus cannot be adequately dealt with via the DCO. All DCO include provision for such matters and that is part of the benefit of a DCO, enabling the consenting of these powers (with appropriate control mechanisms) through a 'one stop shop'. The DCO provides sufficient control for WCC over the LRN through the protective provisions and requirement for consent in respect of street works as appropriate.</p>

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		<p>The Applicant sets out in paragraph 5.205 of the Explanatory Memorandum [Doc ref 3.2B; REP4-029] its reasons and justification for disapplying the relevant statutory provision.</p> <p>In summary:</p> <ul style="list-style-type: none"> <li>• relevant approval mechanisms are included in the dDCO either in the articles, requirements of protective provisions; and</li> <li>• the relevant provisions in the New Roads and Streetworks Act 1991 are disapplied to ensure only one approval mechanism is needed.</li> </ul>

**Applicant’s Response to WCC Deadline 4 Submission – Response to ExA’s Written Questions**

No	ExQ Ref	Matter	WCC Response	Applicant’s Response
1	1.0.3.	<p><b>Covid-19 pandemic</b></p> <p>a) Does any party have any view as to whether the Covid-19 pandemic has had any material implication as to how the Proposed Development should be considered, particularly in relation to demand and trends in all aspects of the submission following the pandemic? b) If so, they should explain why they hold that view, evidenced where possible.</p> <p>Note: This is a separate matter to the question asked of the Applicant in the Rule 17 letter of 22 September 2022 [PD-007] which was responded at D2 [REP2-077] by the Applicant. The Applicant does not need to respond further, but other IPs may respond</p>	<p>a) – D2 [REP2-077] notes that “LCC NDI Modelling team response suggests an option that aligns with Option 3 of the TAG guidance would be the most appropriate method at this time. The timeline for the suggested work would be 3 to 5 weeks after acceptance by the Highway Authorities to the approach. A fully rebased model using 2023 flows (as per Dft Option 2) is not likely to be ready for general use until mid to late 2024.”</p> <p>With HNRFI we are looking at traffic impact, both in terms of reassignment in response to the new infrastructure as well as a direct consequence of new trips on the model network related to the development proposals</p> <p>If we assume that the changes in background traffic patterns in this area are similar to elsewhere in Warwickshire then it is likely that peak hour traffic volumes will be lower if the models were updated to account for Covid.</p> <p>The effects are also unlikely to be consistent as some areas will always be at capacity but other routes (which accommodate a lot of rat running trips) may perform</p>	<p>The application of Option 3 in the TAG guidance was verbally agreed by all Highway Authorities at ISH2. This was to fit within the examination period and to provide a reasonable proxy for traffic conditions on the Highway network.</p> <p>At a further workshop on 13 November 2023 it was agreed by the Applicant and the Highway Authorities that a re-survey would take place on the junctions that are subject to mitigation. This was to ensure that localised changes to traffic flows and assignments between the original data from 2019 and the new 2023 flows would be covered.</p> <p>The Applicant re-surveyed within the limited window available to ensure a neutral month and delivery of modelling in time for the</p>

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		<p>both to this question and the D2 response.</p>	<p>significantly better due to traffic reassignment.</p> <p>WCC is concerned that application of Option 3 (i.e. globally adjusting the model results) would not be reflective of urban and rural parts of network. We would therefore request further clarification as follows:</p> <ul style="list-style-type: none"> <li data-bbox="891 563 1626 671">(i) How will the factors which will be used to inform the 'global adjustments' be calculated and applied to the model outputs?</li> <li data-bbox="891 687 1585 759">(ii) (Will the adjustments be contained to specific model outputs?</li> <li data-bbox="891 775 1608 919">(iii) Depending upon the answer to the previous question, how traffic impact will be assessed in light of the application of global adjustments to the 'model results'?</li> </ul> <p>b) WCC has very limited post pandemic traffic count data for this part of the network – data collection was only recommended to be re-started in April 2023 by DfT. However of the limited data collected, there has generally been a trend of some peak hour reductions whilst the inter-peak flows have increased, however more data is required before any conclusions can be drawn.</p> <p>Overall, WCC consider the assessments carried out to</p>	<p>Deadline 4 submission. The days of surveys were approved by LCC and NH respectively. Modelling results are included within Transport 2023 Update (document reference: 18.13.2, REP4-131).</p> <p>The Applicant contends that the commissioning of the Covid run of the PRTM model, combined with the re-survey of local junctions covers the assessment for any potential variance in results when comparing global and local traffic changes.</p>



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			<p>date to identify the development percentage impacts may show lower percentages than would be the case with a post-pandemic dataset, so more links/junctions could fall into scope with an updated baseline. However, if the trends outlined within the report hold for all parts of the network, then the peak hour operational assessments that have been carried out with slightly higher forecast background traffic flows and this would provide for an element of robustness</p>	
2	1.2.2.	<p><b>ES Appendix 11.4: Arboriculture Impact Assessment</b>  [APP194] Please confirm or otherwise your comments on the Arboriculture Assessment and the loss of trees, particularly the loss of Category A specimens. In addition, please comment on the compensatory provisions proposed</p>	<p>We would expect the detail of any arboricultural and landscape impacts for any highway works to be identified at the time of technical approval. WCC's current S278 process would include provision for commuted sums in lieu of any loss. If not included, we would like this provision to be included in the dDCO.</p>	<p>All vegetation to be removed as a result of the development is identified in Appendix 11.4 (document reference: 6.2.11.4, APP-194). As noted, the details will be confirmed at the time of technical approval, however, there are no such impacts anticipated on the highway for which WCC is the highway authority. Accordingly, there is no such requirement for a commuted sum in this regard and the DCO does not need to include drafting to this effect. Protective provisions are almost agreed with WCC and do not contain the provision of such a sum.</p>
3	1.11.5.	<p><b>TA – Part 5 [APP-142] – Trip Distribution</b></p>	<p>The proportion of employees that would be Managers, directors and senior officials at the site would be</p>	<p>The Managerial roles were excluded within the original Trip Distribution</p>

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		<p>Table 3 uses the Census Occupational Categories and sets those 'in scope'. Do IPs consider that this is appropriate given that managerial staff, some of whom may work in the office elements, have been excluded?</p>	<p>relatively small in comparison to those carrying out other roles, so would therefore be unlikely to significantly alter the distribution applied. The distribution that was derived for commuting staff included locations both in the vicinity of the site and locations further afield but considered to be within a commuting distance.</p>	<p>document signed off by all parties prior to the model run. Further engagement with LCC NDI consultant team however, confirms that Census JTW data for similar sites, DIRFT and Magna Park are used in the analysis of commuter travel distances, combined with planning uncertainty logs used within the PRTM. These take account of likely trips on the network and include a number of managerial staff; this will be in the region of the 10%. Trip generation also is based on similar SRFIs with corresponding levels of managerial roles and therefore managerial roles were not excluded in the overall analysis.</p>
4	1.11.9	<p><b>M69 Closure</b> In the M69 Closure Plan submitted by the Applicant [REP3- 043] the Applicant states "when the SRN is temporarily closed, the additional traffic movement from HNRFI will not have a significance to the frequency</p>	<p>WCC disagree with paragraph 9 (REP3-043) Whilst acknowledging that with closures of the SRN and signed diversion routes directing all traffic to use the LRN, the volume of traffic generated by this site are likely to be a relatively small proportion, the volume of traffic forecast to be generated by the site are not insignificant at circa 1400-1800 two-way trips in the peak hours, and over 25,000 two-way trips each weekday. Typical link capacity for single lanes is around 2000 vehicles an hour,</p>	<p>SRN closures are an unavoidable issue in the management of such a network. Capacity on LRN is invariably much less than the SRN itself and is the case across the country.</p> <p>As mentioned in the document (document reference: 17.8, REP3-</p>

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		<p>of such interruptions in the free flow of traffic, or the extent/duration of consequential inconvenience on the surrounding LRN". Do the NH, LCC and WCC concur with this view. If not, could they explain why they hold a differing view and what this may have on the effects of the Proposed Development?</p>	<p>therefore the existing background LRN flows with the SRN diverted flows would exceed link capacity, the additional HNRFI traffic would further exacerbate this situation. Dependent upon where the closure takes place, if it were on the M69 north of junction 2, the provision of the new northbound slip road would provide a new route for the diverted traffic to use and this would impact upon the LRN in this area. Typically closures on the SRN can last many hours, therefore a significant proportion of the daily trips would be forced to use the LRN should a closure occur on a part of the SRN in the vicinity of the site. The site access strategy is dependent on the delivery of the M69 jct 2 slip roads (new), and being located close to the SRN. If access to the SRN is not permitted due to a closure elsewhere, there will not be any mechanism to prevent the development traffic using the LRN. In such circumstances a closure to the north of M69 jct 2 could result in additional impacts to the villages east of the M69, and the A47, a closure to the south of M69 jct 2 could result in additional impacts to the villages southeast of M69 and the A47. Similarly closures of the A5 to the east or west of M69 jct 1 would have similar impacts. In such circumstances drivers (light vehicles and HGVs) rely on satnavs to find an alternative route to avoid congestion, this is likely to result in traffic using unsuitable roads that impact on sensitive receptors eg. residential areas, schools, and other local amenities.</p>	<p>043) In circumstances where closure of the SRN occurs, the Emergency Routing Plan would come into force. A further document has been submitted at Deadline 4 which outlines the Incident Plan in more detail (document reference: 17.8.1, REP4-115) It is a locational requirement for SRFIs to be close to major trunk roads. (NPS – NN 2.45) in order to primarily route the HGV short haul movements via the SRN. The additional traffic associated with HNRFI will not have a direct bearing upon the frequency of closures of the SRN, which are not directly related to the volume of traffic. Accidents may happen for a range of reasons and cannot be modelled for frequency.</p> <p>The future Site management will have the opportunity to communicate to the occupiers to limit or stop trips onto the LRN while the SRN closures are in place. Further detail is included within the HGV Route Management Plan and</p>

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				Strategy (document reference: 17.4B, REP4-113) paragraphs 4.11-4.17. Delays associated with the closures or diversions onto inappropriate routes would not be commercially attractive to logistics operators.
5	1.11.11.	<p><b>Hazardous Substance Zones of Influence</b></p> <p>Are there any Hazardous Substances Zones of Influence which potentially could impact on the M1 (between junctions 19 and 22), M69 (whole length) and A5 (between the A4303 junction and the M42 junction), and could result in closure of the motorways/ A5?</p>	No comments	Noted
6	1.11.13	<p><b>HGV Routing</b></p> <p>a) How would the Applicant, NH, LCC and WCC respond to a proposition that there should be either no development or no occupations until the proposed lowering of the height of the carriageway on</p>	This would be the preferred situation, as high-sided HGV's would remain on the SRN. However, the HGV Management Plan and Route Strategy have identified the A47 (north of Dodwells) as a suitable advisory route, therefore cannot answer this until the results of the VISSIM modelling for A5 Longshoot-Dodwells has been submitted.	VISSIM modelling was submitted at Deadline 4 (document reference: 18.13.2, REP4-131) which accounts for the Padge Hall flows and is in line with NH protocol. The Applicant has maintained that the lowering of the carriageway under the A5 Nutts Lane Rail Bridge was not modelled within the PRTM run

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		<p>the A5 under the railway bridge has been completed?</p> <p>b) Could the Applicant, if necessary on a without prejudice basis, provide a draft Requirement to this effect?</p>		<p>for the application. The mitigation was not within the uncertainty log as this was agreed with the Authorities prior to the works to the highway under the bridge being recommended for approval by the relevant planning authorities as part of the Padge Hall Farm development proposals.</p> <p>The HNRFI development is not dependent on the delivery of the alterations, as an alternative route for High-Sided vehicles was identified at the time of submission for vehicles heading north-west on the A5 and vice-versa. This is via the A47 and the new link road that the HNRFI development's access infrastructure provides.</p>
7	1.11.31.	<p><b>Non-Car mode enhancements</b></p> <p>Revision 5 of the Sustainable Transport Strategy and Plan [REP3-022] sets out several proposals and options for enhancement to non-car facilities and modes. While appreciating that further work</p>	<p>Part (d) – WCC acknowledge that the proposals have been updated to reflect improved public transport connections to Nuneaton, but are concerned that options for bus access and/or bespoke pre-bookable transport services for potential HNRFI employees living in Rugby do not appear to have been considered in the revised Sustainable Transport Strategy. We would like to see a commitment from the Applicant to fund and</p>	<p>The trip distribution (document reference: 6.2.8.1, APP-142) Figure 8 and 9 had identified the likely sources of employees to the site. There is also a heat map with Leicester, Coventry and Nuneaton featuring much more heavily in the projected forecast of likely</p>

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		<p>is to be done on the proposals: a) Could the Applicant confirm how the committed proposals are to be secured? b) Could the Applicant explain how the potential proposals for post decision would be evaluated and, where appropriate, how they would be secured. c) Could the Applicant please undertake an analysis on the operation of the A47/ B4668 roundabout in relation to the introduction of a Toucan crossing as shown (Enhancement 1) and what effect it would have on capacity and queuing. d) Could IPs comment on the weight that should be given to these elements, particularly in relation to elements that are not definitely secured?</p>	<p>promote sustainable travel options given that there will be a significant expansion in Rugby's resident population with major housing allocations identified in the adopted Rugby Local Plan (June 2019). Sites at Houlton (6,200 homes) and Gateway Rugby (1,300 homes) are partially built out and there are also major allocations at South West Rugby (5,000 homes) and Coton Park East (800 homes). Rugby is identified as a potential employment draw in Figures 8 and 9 of [App142]. Elements that are not demonstrated as definitely secured and deliverable should not be afforded any weight.</p>	<p>employee trips density, compared to Rugby. For example, Leicester and Coventry output areas have densities of up to 100 employees. Whereas Rugby output areas register at approximately 0.5 to 1. The Sustainable Transport Strategy submitted at Deadline 4 (document reference: 6.28.1B, REP4-052) sets out the services to the site, including linkage to Nuneaton and Lutterworth.</p> <p>Rugby's forecast employee densities forecast would not generate enough demand to commit to a dedicated service provision. Nevertheless, the Applicant is committed through the Sustainable Transport Strategy secured by Requirement 9 to fully review bus provision annually and its effectiveness in achieving mode shift from single occupancy car trips to more sustainable means of access to the Site.</p>

