

Tritax Symmetry (Hinckley) Limited

HINCKLEY NATIONAL RAIL FREIGHT INTERCHANGE

The Hinckley National Rail Freight Interchange Development Consent Order

Project reference TR050007

Applicant's response to Deadline 6 Submissions [part 1 - BDC]

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27 February 2024

Planning Act 2008

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

Applicant’s Response to Blaby District Council Deadline 6 Submission

**Blaby District Council (IP ref. 20040018) Deadline 6 submission (ref. TR05007).
Deadline 6 – February 20, 2024**

Comments on Deadline 5 submissions

1. This document outlines Blaby District Council’s (“BDC’s”) response to documents submitted by Tritax Symmetry (Hinckley) Limited (“the Applicant”) at Deadline 5.
2. BDC wishes to highlight the approach that has been taken in responding to these deadline 5 submissions. In order to ensure that the response documents are not unnecessarily lengthy, BDC has only responded where it feels that a full response or clarification is required. Therefore, where BDC has not directly responded to a comment or document, it can be taken that BDC notes the comment and has nothing further to add.
3. BDC is content with the Examining Authority’s (“ExA’s”) suggested amendments to the draft Development Consent Order (dDCO) issued on 19 January 2024 including the proposed “securing land” Requirement after Requirement 2 which would require evidence of the transfer of certain plots of land to be submitted to and agreed in writing by Blaby District Council. BDC’s comments on the Applicant’s draft S106 agreement below include reference to an addition obligation considered necessary in relation to this new Requirement. **Applicant’s Response: The Applicant has since discussed this position with BDC and notes that BDC understands the logic of the Applicant’s response to the ExA’s suggested requirement (Document 3.5, REP6-004). BDC has also confirmed that it is no longer seeking a s106 obligation in respect of reviewing title evidence.**

Document Reference	Document Name	BDC Comments	Applicant’s Response
Health			
Traffic and Transport			
6.2.8.1C [REP5-009]	ES Appendix 8.1 Transport Assessment [Part 15 of 20] Sustainable Transport Strategy and Plan	<p>Public Transport</p> <p>The Applicant’s Sustainable Transport Strategy and Plan references Demand Response Transport (‘DRT’) which BDC have always considered to be inappropriate for the Hinckley National Rail Freight Interchange (HNRFI).</p> <p>BDC’s concerns in respect of the Applicant’s approach to sustainable travel was set out in our Local Impact Report [REP-055] at paragraphs 18.17 – 18.19. BDC’s Written Representation [REP1-050] at paragraph 6.16 clearly stated that DRT would not be appropriate for this type of development as the shift patterns of the proposed warehousing would result in high numbers of employees requiring transport from geographically separated villages at the same time. The representation stated that a fixed bus service is a more appropriate option to serve the surrounding villages within Blaby District.</p> <p>DRT services are ill suited to inflexible shift pattern working because of their inherently flexible approach to routing. If two employees try to book a service from villages that are too far apart for both to reach the HNRFI site on time, or if other passengers have already booked conflicting journeys, than the way the DRT apps are programmed, one or neither</p>	<p>The DRT commitment is included within the Deadline 7 STS update (document reference: 6.2.8.1E) (Table 1). As per the Applicant’s response to Deadline 5 Response (document reference: 18.19, REP6-018).</p> <p>DRT Service and public services will be increased in line with the on-site staff- as per the approach set out within the STS, as per the commitments table of the STS (document reference 6.2.8.1E), Table 1, this is to be reviewed on an annual basis. There is a memorandum of understanding with the DRT delivery company, Arriva as the public bus operator and the Applicant. The site will populate over a long time, so it is critical for monitoring to identify suitable provision.</p> <p>It is important to note that the DRT is a private ‘Many to One’ service which will operate to the HNRFI site. This type of service is more straight forward to control than a public DRT service which needs to satisfy multiple origins and destinations within a defined area. This has led to the fixed route paths implemented as part of the Lubbethorpe scheme. The HNRFI scheme journeys will have a fixed destination or origin (the Site) for all passengers depending on which leg of the journey they are on. This will lead to less conflict on journeys, with most being inbound or outbound depending on the time of shift. As mentioned above, ongoing monitoring will help</p>

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		<p>of them may be offered a service. Also, the routing often works on a first come first serve basis, which means the length of time it takes an employee to get to the HNRFI site could vary significantly one day to the next. For example, if an HNRFI employee's next-door neighbour booked to travel from Croft to Narborough before the employee booked their commute from Croft to the HNRFI, that employee's journey could take approximately 25 minutes rather than their usual 15 minutes.</p> <p>An alternative issue is that there are simply too few users of the DRT service to make it viable to operate. Blaby District's New Lubbethorpe Sustainable Urban Extension originally included DRT but more recently this has been replaced by two much more successful fixed route services.</p> <p>In conclusion, BDC still considers that the use of DRT is inappropriate for the HNRFI because there will be either too many passengers to make the service practical or too few passengers to make the service viable.</p>	<p>identify where there are issues with capacity to implement plans to rectify.</p>
<p>18.5 [REP5-025]</p> <p>17.4C [REP5-023]</p>	<p>Written Statement of Oral Case ISH6</p> <p>HGV Route Management Plan and Strategy</p>	<p>HGV Route Management Plan and Strategy</p> <p>The Applicant set out that private enforcement measures, monitoring and management processes are set out in the Management of Monitoring section of the HGV Route Management Plan and Strategy [REP5-023]. They stated that responsibility for enforcement and management sits with the Site Management Company and will be monitored and reported by the site wide Travel Plan Coordinator.</p> <p>BDC's concerns are around the location of automatic number plate recognition (ANPR) cameras, the private enforcement measures and the public sector enforceability of the HGV Route Management Plan and Strategy as drafted. The comments below expand upon the previous concerns detailed at BDC's Written Summary of Oral Submissions [REP5-054] and summarise the tracked changes made to the HGV Route Management Plan and Strategy detailed at Appendix 1 of this submission.</p> <p>BDC are concerned by the efficacy of the proposed ANPR Camera Locations detailed at 5.14 – 5.18 of the strategy. BDC consider that additional locations need to be provided to ensure that HNRFI HGV Traffic using all of the prohibited routes, such as the B4114, are properly recorded. The Applicant will need to investigate further locations and</p>	<p>The Applicant has amended the HGV Route Management Plan and Strategy (document reference: 17.4E) to account for additional sensitive routes within the Deadline 7 submission. This includes new locations of ANPR to protect identified Prohibited Routes.</p> <p>The HGV Route Management Plan and Strategy (document reference: 17.4E) has also been updated taking into consideration the track changes submitted by BDC. Whilst not all track changes have been included directly, the context behind the majority have been included. Where changes have not been included, the Applicant considers that other paragraphs within the strategy provide the required content.</p> <p>The plan highlights that the enforcement responsibilities are with the Applicant and the designated Travel Plan Coordinator.</p>

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		<p>liaise with the relevant Local Authorities to agree suitable additional locations as BDC does not have the appropriate information to suggest specific camera locations.</p>	
		<p>With regards to the private enforcement measures detailed throughout the strategy, BDC consider that fines should be set at £1,000 and HNRFI HGVs should pay fines when a prohibited route is used, rather than when there are persistent breaches (see Appendix 1, paragraph 5.50). This will provide a greater incentive to avoid the Prohibited Routes. In addition, the potential measures to be taken following the Strategy Review Panel meetings should be more clearly set out together with a process for agreeing those measures (see Appendix 1, paragraph 5.58). BDC have also proposed amendments to the strategy which more clearly outlines where and how the public can direct complaints (see Appendix 1, paragraph 5.24). This is needed to ensure the public know that breaches of the strategy should be directed to the Site Management Company / Travel Plan Coordinator, rather than being reported to the Local Planning Authorities.</p> <p>Finally, as outlined in BDC's Written Summary of Oral Submissions for ISH6 [REP5-054], the Applicant has mischaracterised BDC's enforcement role and its ability to take enforcement action where HNRFI HGVs are using routes which are prohibited under the strategy. The power to take enforcement action is only available under section 169 of the Planning Act 2008 if a person is found guilty of breaching a term of the order granting development consent under section 161 of the Planning Act 2008.</p> <p>As outlined at paragraphs 3.8 to 3.9 of BDC's Written Summary of Oral Submissions for ISH6 [REP5-054], BDC does not consider there is currently a clear mechanism which details what constitutes a breach of the strategy nor does it provide legal basis for BDC to take enforcement action.</p> <p>Therefore, BDC considers that the HGV Route Management Plan and Strategy needs to more clearly outline what constitutes a breach of the strategy and in turn a breach of Requirement 18 of the Development Consent Order (see</p>	<p>The breach approach is aligned with similar HGV Routing Plans in the Midlands (Redditch Gateway). Persistent breaches are picked up through review, Fines are aligned with breaches of environmental weight limits. The Applicant has considered the additional information within the BDC appendix and included where appropriate. Where changes are not included the Applicant considers these addressed within other sections of the document. Details of contacts for the Site Management TPC will be available for the public.</p> <p>The HGV Route Management Plan and Strategy (document reference: 17.4E) has been updated taking into consideration the track changes</p>

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		<p>Appendix 1, paragraphs 5.39, 5.40, new paragraph after 5.59 and Table 5).</p> <p>In summary, the changes detailed in Appendix 1 seek to strengthen the HGV Route Management Plan and Strategy generally and provide a clear basis for when enforcement action could be taken, whilst still working within the tiered framework proposed by the Applicant.</p>	<p>submitted by BDC. Whilst not all track changes have been included directly, the context behind the majority have been included. Where changes have not been included, the Applicant considers that other paragraphs within the strategy provide the required content.</p>
<p>3.1C [REP4-027]</p> <p>13.1B [REP4-093]</p>	<p>Draft Development Consent Order</p> <p>Design Code</p>	<p>Car Parking</p> <p>BDC are concerned that the present car parking arrangements are too generous and will potentially undermine the Sustainable Transport Strategy [REP5-009]. This would have a detrimental impact on the Proposed Development's commitment to modal shift.</p> <p>The provision of parking needs to be directly tied to the modal shift targets set out at Table 6 of the Sustainable Transport Strategy [REP5-009]. The Undertaker should be required to provide evidence that the provision of parking will not be to the detriment of achieving those targets.</p> <p>As Requirement 4 requires that the details of each phase must be in accordance with the parameter plans and the principles set out in the design code, BDC consider that an amendment to the Design Code is required to bolster the relationship between parking and the modal shift targets.</p> <p>BDC therefore seek that an amendment is made to the Design Code [REP4- 093] at paragraph 9.2 so as to read: <i>The amount of car parking on each plot will be determined by the Local Authority standards and must support the modal split targets in the Framework Travel Plan.</i></p> <p>Finally, Requirement 4 of the dDCO [REP4-027] ensures that 20% of all parking provided on site will be equipped with electric vehicle charging points. BDC considers that the Applicant could provide subsidised electricity to those using these charging points to encourage the use of electric vehicles and reduce the Proposed Development's operational Green House Gas emissions.</p>	<p>There needs to be a balance struck between parking provision on site and applying mode shift targets. Reducing car parking numbers can have an adverse impact on the surrounding communities as employees may be tempted to park off-site, this has been a concern raised by local communities' pre-submission and during the examination. The Applicant has been able to respond to these concerns by demonstrating the commitment to delivering adequate parking for employees. The Framework Site Wide Travel Plan (document reference: 6.2.8.2D) and the STS (document reference: 6.2.8.1E), both secured by DCO requirement, clearly set out a proactive and secured approach to managing travel demand to the site using a variety of measures including active travel, public transport, DRT and incentives.</p> <p>There is a commitment within the Framework Site Wide Travel Plan (document reference: 6.2.8.2D) which is secured through DCO requirement to introduce a car park management system should it be necessary. This will provide the flexibility should mode shift requirements not be met. The parking standards already match the recommended LA standards.</p> <p>The Applicant will fund a substantial investment in PV and storage in excess of the scales typical of such developments. This in itself represents a subsidy promoting the use of renewable energy for not only the EV charging bays but also the operating energy demands of the buildings.</p> <p>The Applicant has already committed to subsidising renewable energy for all uses on the site through the maximisation of solar PV installations along with substantial onsite storage. The energy costs</p>

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			<p>for EVs are already substantially lower than for internal combustion engine vehicles. Together, these will more than deliver the objective proposed.</p> <p>The electricity from the onsite solar generation will be supplied to occupiers at a discount to prevailing grid prices.</p>

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Draft Development Consent Order				
Applicant's Responses to ExA's Further Written Questions [REP5-036]	dDCO - Schedule 2, Part 2 – Fees	ExQ 2.5.6: The Applicant's position has been consistent for some time that the fees payable will be akin to fees that would be payable for approval of reserved matters under a TCPA application...The Applicant is content however to add further drafting to clarify that it is the intention by reference to the relevant Regulations numbers and will do so in its final draft DCO to be submitted at Deadline 7.	<p>BDC welcomes the clarification provided by the Applicant that the payment of fees will be assessed akin to fees that would be payable for approval of reserved matters under a Town and Country Planning Act (TCPA) application.</p> <p>As outlined in BDC's response to ExQ 2.5.6 [REP5-054], BDC consider that Schedule 2, Part 2 requires further clarity. This should be by way of explicit reference being included to ensure that any consent, agreement or approval in respect of a Requirement should be treated for the purposes of the fee calculation as if it were a reserved matter application. The amendment therefore proposed by BDC is as follows:</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> <p>Following further clarification from the Applicant regarding the timing of the receipt of fees, BDC considers that, in the event the HNRFI is granted a DCO, a post-consent Planning Performance Agreement will be necessary to ensure sufficient planning resource is provided before sufficient fees are received.</p>	<p>BDC's requested amendment has been added to the final dDCO as confirmed by the Applicant several times.</p> <p>The Applicant notes BDC's comment in respect of a potential planning performance agreement and has no comment at this time. The Applicant considers the position in respect of fees is clear and reasonable. The Applicant does not consider it appropriate to discuss post consent planning performance agreements at this stage.</p>
Applicant's Response to Deadline 4 Submissions [Part 1 – BDC]	dDCO - Article 49 – Disapplication, application	The Applicant does not consider that the proposed wording by BDC is appropriate. The Applicant is aware that there is no conflicting	BDC is generally content with the justification provided by the Applicant for the inclusion of article 49(3).	Noted

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[REP5-040]	and modification of legislative provisions	<p>planning permission at this stage, but the wording is intended to cover all eventualities including the future position.</p> <p>In terms of paragraph 3(a) of BDC's proposed response, article 49(3) does not disapply section 31 PA 2008 and so the proposed amendment is unnecessary.</p> <p>Paragraph (3)(b) of BDC's proposed wording is not appropriate since a TCPA planning permission may not be <i>required</i> to complete or enable the use or operation of the "authorised development" but may be necessary to satisfy a warehouse occupier or rail terminal operator requirements. Examples might include alternative arrangements or different parameters for car parking, lorry parking, reach stackers or cranes or any other form of development which might otherwise be considered associated or ancillary development, all of which could be appropriately permitted under the TCPA.</p> <p>The Applicant's wording is similar to that contained in other DCOs such as Northampton Gateway and is necessary to ensure that development pursuant to such planning permission would not constitute a criminal offence under the DCO.</p> <p>The Applicant considers it prudent to include wording which seeks to ensure that any such TCPA planning permission would not prevent continued development under the DCO and avoid a potential 'Hillside' situation on the basis that this point has not been tested in the Courts in relation to DCOs.</p>	As outlined in BDC's Deadline 4 submission [REP4-166], the drafting is acceptable.	

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Planning Obligations			
<p>9.1B [REP5-019]</p>	<p>DCO Obligation S106 Agreement</p>	<p>Since the draft section 106 Agreement was submitted by the Applicant at Deadline 5, BDC and the Applicant have continued conversations to further work towards an agreement on the draft section 106. This submission provides an update on those subsequent negotiations. BDC firstly would like to acknowledge the Applicant's proposals and suggestions to reach agreement on the section 106 agreement and the amicable nature of negotiations thus far.</p> <p>As noted in BDC's response to the ExA's Written Question 2.5.6 [REP5-054], BDC sought confirmation that the obligation to implement the Work and Skills Plan would come into effect prior to the commencement of material operations. The draft section 106 agreement has since been amended to specifically provide that the obligation to implement the Work and Skills Plan comes into effect from the date the DCO is granted.</p> <p>It is noted that BDC also requested that a contribution towards BDC's monitoring of the section 106 overall is provided. It has since been agreed between BDC and the Applicant that this contribution will now either be £250 or 2% of the value of contributions payable to BDC, whichever is greater. This brings the overall section 106 monitoring fee in line with BDC's Developer Contributions Planning Policy adopted in 2013.</p> <p>BDC acknowledges the Applicant's proposal to pay a contribution for BDC's attendance at the Work and Skills Meetings which will monitor the success and implementation of the Work and Skills Plan. As noted in BDC's response to the ExA's Written Question 2.5.6, BDC were considering the proposed sum internally. BDC has since agreed with the Applicant that the proposed fee of £1,440 will be paid on a per meeting basis. BDC and the Applicant have agreed to amend the frequency of meetings from quarterly to twice a year.</p> <p>With regards to a contribution towards BDC's involvement in the monitoring of the HGV Route Management Plan and Strategy, while the broad principles have been agreed, BDC and the Applicant are continuing discussions on the exact amount of this contribution.</p>	<p>The Applicant is pleased to confirm that the s106 Agreement has been agreed with BDC and the final version submitted at Deadline 7 (document reference: 9.1C) is that agreed version.</p> <p>BDC has confirmed that it is not seeking a contribution for the review of title evidence and that it has noted and understands the logic of the Applicant's position in response to the ExA's suggested requirement in this regard.</p>

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		Furthermore, as noted above BDC seek an obligation in the section 106 Agreement for BDC's reasonable costs of reviewing evidence of the transfer of ownership to be reimbursed, should the new requirement proposed by the ExA be included in the order.	