

Tritax Symmetry (Hinckley) Limited

HINCKLEY NATIONAL

RAIL FREIGHT INTERCHANGE

The Hinckley National Rail Freight Interchange

Development Consent Order

Project reference TR050007

The Applicant's Final Summations and Signposting

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Planning Act 2008

1. Executive Summary

- 1.1 Development of a Nationally Significant Infrastructure Project of the form and scale of a Strategic Rail Freight Interchange (SRFI) invariably attracts substantial public opposition from the local community – whose voice is then represented by local authorities, and Members of Parliament. There is undoubtedly a tension between the resistance to accept new strategic scale new developments in circumstances where the development may have some residual impact on their daily lives, and the critical need, in the interest of the UK as a whole, for new national infrastructure.
- 1.2 The Government has established that there is a compelling need for an expanded network of SRFIs. The local authorities of Leicestershire and the Leicester and Leicestershire Enterprise Partnership (LLEP) have established a substantial need for rail related floorspace, 768,000sqm (307ha) at rail served sites. This requirement would largely but not entirely be met by Hinckley National Rail Freight Interchange (HNRFI). This need emerges from the mid-2020s. The national need, the sub-regional need and the county need would be addressed by HNRFI.
- 1.3 Consultants have been engaged by the relevant authorities. Much agreement has been reached between technical counterparts and with Interested Parties during the examination as evidenced by the settled Statements of Common Ground (document reference: 19.1D, 19.2D, 19.3D, 19.6b, REP7-072).
- 1.4 It is of course acknowledged that following the provision of mitigation across a wide range of environmental issues, there will be some residual impacts from HNRFI. Local people will be aware of the presence of the rail port and large-scale warehouses. These features 'go with the turf' of a SRFI in fulfilling its role as new national infrastructure. However, it is the Applicant's view that as advised by paragraph 2.51 of the National Policy Statement for National Networks (NPS-NN) these local impacts have been minimised in so far as is consistent with the primary policy imperative to deliver national infrastructure.
- 1.5 A preferred rail port operator, Maritime, has already committed to operate the terminal (see the signed letter at Appendix A of the Applicant's Responses to Deadline 7 – BDC Part 1 submitted at Deadline 8 (document reference 18.21) – an unprecedented situation at this stage of the planning process, but testament to their commitment as to the viability and suitability to the market of HNRFI to serve up to 16 x 775m trains each day. Network Rail is confident that strategically HNRFI 'will support Government and rail industry targets for intermodal rail freight growth and delivering freight mode shift from road to rail.' (Network Rail SoCG document reference: 19.8, REP5-053).
- 1.6 Councillor Stuart Bray's contribution at OFH2 where he asserted that HNRFI offered 'very little benefit' is a travesty of reality. Very substantial benefits will be realised in the national, regional and local interest.
- 1.7 As might be expected in response to a SRFI proposal, representations have focussed on traffic impacts. National policy specifically acknowledges for SRFIs that the delivery of this form of national networks may give rise to impacts on the surrounding transport infrastructure including connecting transport networks (NPS-NN 5.213). The Applicant considers that 'reasonable steps have been taken to mitigate these impacts' through the provision of Planning Obligations and the Requirements. The mitigation measures are both proportionate and reasonable. The Sustainable Transport Strategy has focussed on promoting sustainable transport while recognising the geographical location of HNRFI- which lies beyond-but close to a large centre of urban population (Hinckley Burbage and the SUEs at Barwell and Earl Shilton).
- 1.8 The LAs consider more could be done in respect of the Sustainable Transport Strategy. The Applicant considers that having regard to the specific locational requirements for a SRFI, and its 'countryside location' effective provision has been made in offering a genuine choice of transport modes to/from HNRFI.
- 1.9 The Applicant has been willing to commit to planning obligations and mitigation as required by the NPS-NN 5.214. It is submitted that HNFRI is fully compliant with the provisions of the

NPS in addressing the impacts on transport networks –and that the residual effects on the surrounding network should be given 'limited weight' (NPS-NN 5.216).

- 1.10 The statutory matrix for the decision taking requires consideration of the adverse impacts, after mitigation, to be balanced with the public benefits (S104(7) of the PA 2008 and NPS-NN 4.3) Subject to the detailed policies and protections in the NPS-NN, and the legal constraints set out in the Act, there is a presumption in favour of granting development consent for national networks NSIPs such as SRFIs (NPS-NN 4.2 This presumption in favour of a consent for HNRFI. The presumption in favour of a consent for HNRFI is in the planning system operates in the overall public interest. The Applicant submits that the overall public interest lies firmly in favour of granting a development consent. The residual adverse impacts have been minimised. These residual effects demonstrably do not outweigh the substantial public benefits which are set out at Section 7 of these summations.

2. Introduction

- 2.1 This document has been prepared by the Applicant as a concise summary of the substantive points raised throughout the Examination as well as a summation of matters agreed and outstanding issues. Signposting to the Examination Library references is included throughout, directing the reader to where the relevant submission material can be found.
- 2.2 The document is intended to assist the Examining Authority (ExA) and the Secretary of State in their reporting and decision-making on the application for a Development Consent Order (DCO) for HNRFI.
- 2.3 Without introducing new matters, the document reflects updates on matters to accurately reflect the position of the Applicant and the relevant Interested or Affected Party where matters have moved on since Deadline 7. This includes matters with National Highways (NH), Leicestershire County Council (LCC), Blaby District Council (BDC) and Hinckley and Bosworth Borough Council (HBBC).
- 2.4 The Examination of the HNRFI represents the culmination of 8 years of extensive, detailed work following the substantive decision by the Applicant, in response to the identified need in the Leicester and Leicestershire Strategic Distribution Sector Study, to make a significant private sector investment in Leicestershire to bring forward a Nationally Significant Infrastructure Project (NSIP) in the form of a Strategic Rail Freight Interchange (SRFI) and the associated rail and highways infrastructure necessary to deliver such a project. This evidences the Applicant's commitment to deliver private sector investment at a very significant scale to deliver the essential infrastructure needed nationally and as envisaged by Government Policy.
- 2.5 Full agreement has been reached with Natural England, Historic England and the Environment Agency.

3. Statutory and Policy Framework

- 3.1 The HNRFI comprises a NSIP as a Rail Freight Interchange within the meaning of Section 26 of The Planning Act 2008 (the Planning Act).
- 3.2 The National Policy Statement for National Networks (NPS) (December 2014) has effect and applies to the HNRFI.
- 3.3 Section 104 (4) to (8) of the Planning Act confirms that, where a NPS has effect, the Secretary of State must decide an application for a NSIP in accordance with the NPS, except to the extent one or more of the specified circumstances would apply:
- lead to the UK being in breach of its international obligations;
 - be unlawful;
 - lead to the Secretary of State being in breach of any duty imposed by or under any legislation;
 - result in adverse impacts of the development outweighing its benefits;
 - be contrary to legislation about how the decisions are to be taken.
- 3.4 The representations against the granting of development consent for HNRFI, advancing harm caused by the proposed development, are to be primarily considered in this legislative and policy context. Some residual impacts are to be expected by the local community in hosting new national infrastructure.
- 3.5 Section 104(2)(d) of the Planning Act states that the decision-taker must have regard to 'any other matters' which are considered 'both important' and 'relevant to the decision'. These considerations include the development plan; the Regional Growth Strategy; the draft NPS for National Networks, and publications issued by the Government which promote increased modal shift from road to rail. The Applicant's position in respect of HNRFI project has been clearly set out in the application Planning Statement (document reference: 7.1B, REP4-086) and during the Examination Process, particularly its case in respect of need for the HNRFI.
- 3.6 Other than the timing of delivery of the rail terminal as part of the HNRFI, the Applicant notes that there has been no dissent from Blaby District Council, Hinckley and Bosworth Borough Council and Leicestershire County Council to the Applicant's case set out in the Planning Statement.
- 3.7 In terms of the timing of delivery of the rail terminal, Requirement 10 of the DCO (document reference: 3.1D, REP7-011) secures the delivery of the rail terminal at an appropriate stage of the development- being prior to the occupation of more than 105,000 sq metres of warehousing space (Requirement 10). The Applicant's position is that delivery of an operational rail terminal prior to occupation of any floorspace is not reasonable nor justified, which is supported by the Department for Transport's proposed updates to the NPS consulted on in March 2023. The proposed updates to the NPS provides clarity around the delivery of rail terminals alongside warehousing.
- 3.8 The draft NPS consulted on in March 2023 states that:
- a. *"Applicants should develop rail infrastructure and buildings capable of rail connection from the outset, and consideration of further rail infrastructure to allow more extensive rail connection within the site in the longer term is strongly encouraged"*;
 - b. *"the Secretary of State recognises that applicants may need to deliver warehousing ahead of the final delivery and commissioning of connections to the rail network coming forward . . . the SoS will want to ensure that operational rail connections are brought forward in a timely manner"*

- 3.9 The proposed updates to the NPS therefore recognise that warehousing may come forward and be occupied ahead of delivery and commissioning of the rail network in a Strategic Rail Freight Interchange project provided that the operational rail connection is brought forward in a timely manner, which the Applicant considers is the case with the HNRFI project.
- 3.10 The Planning Statement addresses the policy considerations raised in the NPSNN at Paragraphs 4.88-4.89, which have exercised the minds of Examining Authorities on other SFRI developments (East Midlands Gateway (EMG); Northampton Gateway (NG) and West Midlands Interchange (WMI)).
- 3.11 The NPSNN makes clear (Footnote 61) that investment decisions on strategic rail freight interchanges will be made in the context of a commercial framework: The Secretary of State in his recent decision on WMI referred to the decision taking on EMGRFI and the need to allow for the 'realities of constructing and funding major projects' and that 'it is entirely reasonable that a commercial undertaking should seek to generate income from warehousing before the railway becomes operational.' (Decision Letter para 29)
- 3.12 In the particular locational context of HNRFI, the required access to the SRN is located to the SE of the main development site. The rail port infrastructure lies on the west side. Substantial new off site highway infrastructure is required in the provision of southern slip roads at M69 J2 to provide an all ways movement junction and in consequence of the re-routing of background traffic upon opening of the new slip roads, the A47 Link road is required. Substantial infrastructure is required to make the rail port operational including two connections to the Network Rail mainline.
- 3.13 In these practical circumstances it is submitted that it is reasonable for a degree of flexibility to be provided when HNRFI is developed. The Local Authorities fear that allowing occupations in advance of the rail port will lead to a road based warehouse development. This fear is misplaced. The unchallenged evidence of Maritime in writing, letter dated 19th October 2022, attached to the Rail Freight Logistics Demand and Supply (document reference: 16.2A, REP3-036), wherein it is stated:
- "From experience with other SRFI start-ups, we believe that the opportunity to allow warehouse occupation and operations to take place ahead of Rail terminals is instrumental in allowing organic growth and encouragement of occupiers to utilise the SRFI to its full potential."
- 3.14 No other SFRI at this stage in the planning process has been so advanced with the rail port operator as at HNRFI - testament to the locational qualities of HNRFI transferring freight from road to rail. The oral evidence from Mr Bailey (for Maritime) ISH4 01/11/2023 (PM) of the realities of the intermodal freight market was unchallenged.
- 3.15 The suggestion that the rail port should be completed prior to the occupation of any warehouses is considered not to be appropriate.

4 Project Description

- 4.1 The project description is set out in detail at ES Chapter 3 Project Description (document reference APP-112). The development can be summarised as follows:
- (a) The demolition of Woodhouse Farm, Hobbs Hayes, Freeholt Lodge and the existing bridge over the Leicester to Hinckley railway on Burbage Common Road;
 - (b) new rail infrastructure including points off the existing Leicester to Hinckley railway providing access to a series of parallel sidings at the HNRFI, in which trains would be unloaded, marshalled and loaded;
 - (c) an intermodal freight terminal or 'Railport' capable of accommodating up to 16 trains up to 775m in length per day, with hard-surfaced areas for container storage and HGV parking and cranes for the loading and unloading of shipping containers from trains and lorries;
 - (d) up to 850,000 square metres (gross internal area or GIA) of warehousing and ancillary buildings with a total footprint of up to 650,000 square metres and up to 200,000 square metres of mezzanine floorspace, including the potential for some buildings to be directly rail connected if required by occupiers. These buildings might incorporate ancillary data centres to support the requirements of HNRFI occupiers and operators. They will also incorporate roof-mounted photovoltaic arrays with a generation capacity of up to 42.4 megawatts (MW) providing direct electricity supply to the building or exporting surplus power to battery storage in the energy centre; an energy centre incorporating an electricity substation connected to the local electricity distribution network, battery storage and a gas-fired combined heat and power plant (designed to be ready for 100% hydrogen in the grid gas supply) with an electrical generation capacity of up to 5 megawatts (MW). Total electricity generation capacity at the Main HNRFI Site is therefore 47.4 MW in aggregate.
 - (e) a lorry park with welfare facilities for drivers and HGV fuelling facilities;
 - (f) a site hub building providing office, meeting space and marketing suite for use in connection with the management of the HNRFI and ancillary car parking;
 - (g) terrain remodelling, hard and soft landscape works, amenity water features and planting;
 - (h) noise attenuation measures, including acoustic barriers up to six metres in height;
 - (i) habitat creation and enhancement, and the provision of publicly accessible amenity open space at the south-western extremity of the HNRFI near Burbage Wood and to the south of the proposed A47 Link Road between the railway and the B4668/A47 Leicester Road;
 - (j) pedestrian, equestrian and cycle access routes and infrastructure, including a new dedicated route for pedestrians, cyclists and horse riders from a point south of Elmesthorpe to Burbage Common;
 - (k) utility compounds, plant and service infrastructure;
 - (l) security and safety provisions inside the HNRFI including fencing and lighting;
 - (m) drainage works including surface water retention ponds, underground attenuation tanks and swales.

5 Site location

- 5.1 In all cases it is essential that SRFIs have good connectivity with the road and rail networks, in particular the strategic rail freight network (paragraph 2.43). The NPSNN states that Government has concluded that there is 'a compelling need for an expanded network of SRFIs' and notes that it is "important that SRFIs are located near to the business markets they will serve - major urban centres or groups of centres - and are linked to key supply chain routes."
- 5.2 The Main HNRFI site lies between the M69 motorway and the Leicester to Hinckley railway line with the site abutting Junction 2 of the M69 motorway. Such a location meets a key requirement of the NPSNN set out at paragraph 2.56, whereby SRFIs will have to have effective connections for both rail and road. The NPSNN acknowledges that these locational requirements will restrict the scope for developers to identify viable alternative sites.
- 5.3 As explained in the Planning Statement; ES Chapter 4 Site Selection and Evolution, and explained orally at ISH4 the key conclusions arising from the technical report commissioned by the county's local planning authorities and the Leicester and Leicestershire LEP (Leicester and Leicestershire Strategic Distribution Sector Study November 2014) included reference to 'one further SRFI will need to be brought forward within Leicestershire up to 2036' (Para 8.6). This study provided the Applicant with the confidence (in a commercial framework) to engage a specialist consultant to examine potential locations where a SRFI might be located in Leicestershire. Upon identifying potential locations EDP undertook environmental appraisals of the potential merits of each option. Much of the country's railway network was constructed in the Victorian era and relies upon river valleys to minimise topographical gradients. The existence of floodplains further limits the opportunity to identify viable sites for a SRFI with the fundamental locational requirements for good access to both the rail and road networks. The NPS does not specify the number of SRFIs that may be delivered by developers. As such a developer is not required to justify through some form of comparative environmental assessment that the selected site is the optimal location over some undefined geographical area. The site of HNRFI provide the confidence of the Applicant to invest massively in the planning process, this confidence as to the viability of HNRFI has been shared with Maritime as the selected railport operator.
- 5.4 Notwithstanding the identified need 'for one further SRFI by 2036' in Leicestershire neither the participant authorities in the Examination or any other planning authority in the County has identified a potential location for a SRFI in the intervening 10 year period since the Study was published in its final form. Although it is accepted sites are to be brought forward in a commercial framework, the lack of any other potential site being identified within Leicestershire, is in itself telling of the limited opportunity to identify sites for SRFIs which meet their exacting locational requirements. Some suggestion was made by BDC that a site could be found within Warwickshire to south of the A5. The Applicant explained at ISH4 that no comparable study to the Strategic Distribution Study in Leicestershire had been prepared by the planning authorities in Warwickshire- and the land to the south of the A5 is Green Belt. Clearly the need for a SFRI in Leicestershire would not be met with such a location even if a viable scheme could be prepared. In reality the suggestion of other sites being more suitable for a SRFI was not seriously advanced by any participant at the Examination.

6. Need and Socio-economic matters

6.1 The NPSNN establishes the Government's conclusion that there is a 'compelling need for an expanded network of SFRIs' (NPSNN paragraph 2.56). This 'need is a component of the critical need to improve the national networks' (NPSNN paragraph 2.1). The draft NPS endorses the compelling need for an expanded network of SFRIs. Recently publications from the Government such as:

6.1.1 The White Paper, 'Great British Railways – The *Williams-Schapps Plan of Rail*' May 2021

6.1.2 'A Greener Britain' The Department of Transport 2021

6.1.3 'The Future of Freight Plan' June 2022

6.1.4 'The National Infrastructure Strategy' 2020

All have the underlying message of the need for substantial investment in new national infrastructure.

6.2 The drivers of the compelling need to develop an expanded network of SFRIs require restating in the context of the representations made against HNRFI, which are misguided as to the role of intermodal freight facilities served by SRFIs.

6.3 These drivers of need are set out in the NPS and embrace (NPS NN 2.46-2.52):

6.3.1 The changing needs of the logistics sector

6.3.2 Rail freight growth

6.3.3 Environmental

6.3.4 UK economy, national and local benefits, jobs and growth

6.4 Most objectors to HNRFI fail to recognise the transfer of freight from road to rail has an important part to play in a low carbon economy and in helping address climate change. (NPS-NN 2.53.)

6.5 It is the Government's expectation that investment decisions on SFRIs will be made in the context of a commercial framework. (NPS-NN Footnote 61) The Government recognises that by reasoning of the locational requirements for SFRIs, the number of locations suitable for SFRIs will be limited, which will restrict the scope for developers to identify viable alternative sites (NPSNN 2.56).

6.6 The Applicant's planned investment is some £809m which will make a meaningful contribution to the strategy for 'levelling-up' in the UK- as articulated in the '*National Infrastructure Strategy*' November 2020.

6.7 In addition to the compelling national need for an expanded network of SFRIs, the local authorities of Leicester and Leicestershire have established through commissioned research that there is a need for a SFRI within Leicestershire. The '*Warehousing and Logistics in Leicestershire: managing growth and change*' March 2022 (Document ref: REP-5 072) has identified a shortfall of some 768,000m² of rail served warehousing space for the period up to 2041 – and acknowledge that a supply shortfall for rail served sites '*starts to emerge around the mid 2020's.*'

6.8 The Statement of Common Ground entered into with the relevant authorities, acknowledges this shortfall situation. The LLEP '*Economic Growth Strategy 2021-2030*' references Leicestershire as being the '*UK's central logistics hub - providing some of the best sites in the UK for logistics businesses in the most central and accessible locations in the UK.*' The priorities of the Plan include supporting growth in key sectors, including logistics (Priority 1)

and *'to support greater use of rail freight transport.'* The substantial financial commitment to HNRFI is consistent with the Economic Growth Plan.

- 6.9 The Statements of Common Ground acknowledge that a suitable and available site can not be identified within an existing urban area. The recognition in the NPSNN (paragraph 4.84) that *'due to these [locational] requirements, it may be that countryside locations are required for SFRIs'* is applicable in responding spatially to the national and regional need in Leicestershire.
- 6.10 The relevant authorities accept the business case for HNRFI will not 'consume the lunch' of existing and committed SRFIs. None of the authorities has identified an alternative site to which the needs for a SFRI could be located in Leicestershire.
- 6.11 HNRFI satisfies the statutory and policy requirements for a SRFI, with a significant additional benefit in its proximate location to the large urban area of Hinckley and Burbage, and the committed sustainable urban extensions at Barwell and Earl Shilton. The 'need to travel' is reduced in the short distance between HNRFI and a large urban population. The Government's policy commitment to *'limiting the need to travel and offering a genuine choice of transport modes'* (Framework 109) is supported by the locational proximity of HNRFI to these large centres of population. The Applicant's response to the points taken by the Authorities to Sustainable Transport Strategy is addressed below under Transport.

7. Scheme benefits

- 7.1 Representation was made by Councillor Stuart Bray at the Oral Examination that HNRFI offered “very little benefit” (OFH 2 02/11/2023). The Applicant subsequently provided a consolidated note of the benefits of HNRFI (document reference: 18:10, REP3-075). These benefits are set out below:

Investing in the National Network of SRFIs

- 7.2 The current cost estimate for HNRFI is approximately £809m. This is a very significant investment. Funding for this national infrastructure project, whose need is acknowledged, would be in the form of private capital investment, not public funding. This investment would contribute to economic growth at a national and a regional scale. This level of investment is confirmed at paragraph 7.1 of the latest Funding Statement submitted at deadline 7 (document reference: 4.2A, REP7-017).
- 7.3 HNRFI would help address the ‘compelling need’ for an expanded network of SRFIs, to support the Government’s rail freight and sustainable transport objectives.
- 7.4 HNRFI would allow rail to be optimised for the long haul freight journeys from the deep sea ports, and when fully operational is estimated to reduce HGV road freight movement by 83 million miles per annum this is set out in Written Statement of Oral Case ISH2 - Appendix G-HGV miles and Carbon Savings (p13 ‘Response to Parishes’ Written Representations).
- 7.5 HNRFI by reason of its central location within the strategic rail network is ‘uniquely placed’ to act as a national hub for smaller terminals and ports, so as to consolidate freight movement between different origins and destinations (‘Market Needs Assessment’ document reference: 16.1A, REP4-095 Rev 06 paragraphs 4.28 -4.29).
- 7.6 The study (‘Warehousing and Logistics in Leicester and Leicestershire: Managing growth and Change’ April 2021) commissioned by the Local Planning Authorities in the county and the Leicester and Leicestershire LLEP, has identified a shortfall of 786,000 sqm (307 hectares) of rail served logistics sites, for the period up to 2041. HNRFI would meet this regional need.
- 7.7 The LAs acknowledge in the Statement of Common Ground relating to ‘Strategic Warehousing and Logistics Needs’ (Entered into by the local authorities in Leicestershire) (September 2021 paragraph 3.4 – 3.5) that ‘For rail served sites a supply shortfall starts to emerge around the mid 2020’s (document reference: 19.12C, REP7-075).
- 7.8 The ‘Leicester and Leicestershire Economic Growth Strategy 2021-2030’ acknowledges that Leicestershire is the ‘UK’s central logistics hub’ and logistics is identified as one of the ‘Growth Sectors’. The Strategy has a priority objective to improve rail infrastructure and services. ‘Support is given to greater use of rail transport’. HNRFI will help fulfil the 4 Pillars of the Economic Strategy.

Creating Jobs

- 7.9 The construction of HNRFI is estimated to create an average of 461 on-site construction jobs per annum, across the 10 year construction period (Chapter 7 - Land Use and Socio-Economic Effects - Table 12 Document Ref 6.1.7 APP-116).
- 7.10 It is estimated that an additional 275 jobs will be created off-site per annum over the 10 year construction period. (Chapter 7 - Land Use and Socio-Economic Effects - paragraph 7.204, Table 7.14 document reference: 6.1.7A, REP3-155).
- 7.11 HNRFI would provide an estimated net additional jobs (on site), of between 6,300 – 7,800 (ES Chapter 7 - Land Use and Socio-Economic Effects - Table 7.17 document reference: 6.1.7A, REP3-115).
- 7.12 HNRFI is estimated to safeguard 2,100 – 2,600 jobs in the LLEP area, by enabling relocation of existing logistics activities to a more sustainable location and built environment (ES Chapter

7 Land Use and Socio-Economic Effects - Paragraph 7.224 document reference: 6.1.7A, REP3-155).

- 7.13 An obligation is being entered into by the Applicant for a Skills and Training Programme Plan, to promote careers in logistics construction for young people and the economically active who are disadvantaged including ex-offenders and persons leaving the military. This Skills and Training Programme Plan has been developed collaboratively and agreed with the active involvement of BDC and HBBC and forms part of the S106 Agreement (document reference 9.1D).
- 7.14 HNRFI is estimated to induce off-site employment of between 2000 – 2500 jobs (ES Chapter 7 - Land Use and Socio-Economic Effects document reference: 6.1.7A, REP3-155 - Table 7.17).

Generating Value

- 7.15 HNRFI, for the completed operational phase, is estimated to generate between £329m and £406m in direct GVA (ES Chapter 7 - Land Use and Socio-Economic Effects - document reference: 6.1.7 - Table 7.19, REP3-155).
- 7.16 In addition, HNRFI is estimated to generate between £247m and £305m in indirect GVA through the creation of additional jobs in the Study Area (ES Chapter 7 - Land Use and Socio-Economic Effects - document reference: 6.1.7A, para 7.229, Table 7.19, REP3-155).
- 7.17 The GVA, safeguarded by the availability of HNRFI for existing companies to relocate into modern rail-served premises, is estimated to be between £82 m and £102m (ES Chapter 7 - Land Use and Socio-Economic Effects - document reference: 6.1.7A, para 7.229, Table 7.19, REP3-155).
- 7.18 ES Chapter 7 – (Land Use and Socio-Economic Effects - Document Ref: 6.1.7, para 7.233 – APP-116) estimates that the potential total Business Rates generated will be £24.1m per annum, with Business Rates retained by BDC being 40% at £9.6m. Leicestershire County Council would receive £2.2m (9%) and Leicestershire Fire Authority £240,000 (1%) (ES Chapter 7 Land Use and Socio-Economic Effects – document reference: 6.1.7A, REP3-155, Table 7.20). Table 7.2 acknowledges that for BDC the current Business Rates Retention Scheme imposes a 50% levy on rates over and above the baseline funding.

Environmental

- 7.19 The approximate saving of 83 million HGV road miles per annum would save approximately 104.783kt CO₂e per annum (measure of CO₂ emissions), consistent with Government Policy. A detailed analysis of HGV miles and associated carbon savings was provided at deadline 3 in *Written Statement of Oral Case ISH2 [Appendix G – HGV Miles and Carbon Savings]* (document reference: 18.6.7, REP3-052).
- 7.20 HNRFI will deliver 22 hectares of publicly accessible natural greenspace adjacent to Burbage Common and Woods Country Park. This is comparable to the open space provisions made at East Midlands Gateway and Northampton Gateway. The open space will have a dual role of providing public access and Biodiversity Net Gain (BNG). Design details for this open space will be agreed as part of Requirement 21 (Landscape Scheme) and Requirement 19 (Landscape and Ecological Management) The accessibility to the open land is set out in the Public Right of Way Appraisal and Strategy (paragraphs 1.96 and 1.97) and will be confirmed in discharging Requirements 19 and 21. This enlargement comprises an increase equivalent to some 25% of the existing country park area.

New Road and Rail Infrastructure

- 7.21 New highway infrastructure in the form of the A47 Link will significantly improve traffic movement in and around Hinckley and Burbage, by drawing Southbound and Northbound traffic out of the town centre and suburbs, via the new link road, as explained in the 'Highways Position Statement' (Document Ref 18.2.1 Paragraph 3.38 REP1-033).

- 7.22 HNRFI will procure the closure of some 5 surface railway crossings with diversion routes for the PRoW. At the Outwoods, an accessible ramped railway bridge will be provided, which is shown on plan (document reference 2.32, REP5-006). These provisions contribute to an overall improvement in societal safety levels (NPSNN paragraph 4.72) and contribute to Network Rails programme to close all at grade level crossings, with the added benefit that these are not being achieved by public funding, the cost is funded privately by the Applicant.
- 7.23 The stated position of Network Rail in the Statement of Common Ground (Document Reference 19.8, REP 5-053) adds weight to these benefits. Network Rail state (Paragraph 2.2-2.5):

2.2 HNRFI connects into the gauge cleared Strategic Freight Network ('SFN') cross country route from Felixstowe to the West Midlands and connections into the West Coast Main line at Nuneaton. This has important connectivity benefits for the movement of deep-sea container traffic to and from Felixstowe, London Gateway and Liverpool, as well as other ports, including for the growing short-sea containerised traffic market.

2.3 The SFN programme is intended to enhance the capability of key UK rail freight routes to support the movement of longer and heavier freight trains and supports Government freight mode shift objectives.

2.4 For rail intermodal mode shift and growth forecasts to be achieved there needs to be investment in high quality inland terminals in key regional locations. Increasingly, private sector promoters are developing such terminals. The benefits of this investment are evidenced by accelerated levels of rail traffic growth to/from these terminals.

2.5 Network Rail is therefore satisfied that, strategically, the Hinckley proposal, if consented, will support Government and rail industry targets for intermodal rail freight growth and delivering freight mode shift from road to rail.'

- 7.24 The position of Network Rail fully negates the unsubstantiated assertions made that HNRFI will not function as an intermodal freight facility.
- 7.25 Following the submission of this summary of planning benefits no party has challenged the conclusions made, supported by cogent evidence.

8 Environmental and Social Matters

- 8.1 The NPS refers to the 'environmental advantages of rail freight at paragraphs 2.40-2.41. Thereafter the NPS states 'Nevertheless for developments such as SRFIs, it is likely that there will be local impacts in terms of land use and increased road and rail movements, and it is important for the environmental impacts at these locations to be minimised'. The Applicant has designed HNRFI accordingly.

9. Air Quality

- 9.1 ES Chapter 9 (document reference: 6.1.9, APP-118) has addressed air quality in accordance with the provision of the NPSNN paragraph 5.13. The NPSNN sets out the circumstances where, after taking account of mitigation, the Secretary of State should refuse consent.
- 9.2 LCC have deferred matters relating to air quality to the district and borough councils.
- 9.3 BDC and HBBC have agreed the following matters in their Statements of Common Ground (document reference: 19.1D and 19.2D)
 - 9.3.1 Suitable methodology and policy has been used to assess air quality. Suitable mitigation for air quality is set out in ES Chapter 9 Air Quality (document reference: 6.1.9, APP-118) and in the Construction Environmental Management Plan (CEMP) (document reference: 17.1B, REP6-011).
 - 9.3.2 Emissions from the CHP unit are considered to be acceptable by both BDC and HBBC.
 - 9.3.3 HBBC have agreed Requirement 28 Combined Heat and Power.
 - 9.3.4 The air quality addendum (document reference: 6.4.1, AS-023) demonstrates compliance with the revised PM2.5 air quality objectives published in early 2023.
 - 9.3.5 BDC have in addition agreed no significant impacts at BDC AQMA 6, no significant air quality impacts at Narborough level crossing (document reference: 18.7.3, REP3-058), that mitigation measures will exceed the damage cost calculated (a damage cost calculation is appended to the BDC SoCG (document reference: 19.1D) and BDC have also agreed that no further mitigation or off site monitoring is required.
 - 9.3.6 BDC raised one outstanding matter, post Deadline 7 and therefore after the submission of the final dDCO (document reference: 3.1D, REP7-011), which is to amend the wording of Requirement 28 Combined Heat and Power. The Applicant does not object to the amendment should the Secretary of State determine that it is necessary.
- 9.4 The Statement of Common Ground with BDC (document reference: 19.1D) and HBBC (document reference: 19.2D) establishes that all matters relating to air quality are agreed other than the minor point with BDC relating to the wording of Requirement 28. The construction and operation of HNRFI would not result in non-compliance with the Air Quality Directive, nor prejudice the ability of any non-compliant area to become compliant with the Directive. In consequence HNRFI satisfies the NPSNN.

10. Cultural Heritage

10.1 The assessment of Cultural Heritage is reported in ES Chapter 13 Cultural Heritage (document reference: 6.1.13, APP-122) and has been prepared in accordance with the NPSNN, this is agreed with BDC and HBBC in their respective Statements of Common Ground (document references: 19.1D and 19.2D).

ISH3

10.2 The agenda for Issue Specific Hearing (ISH) 3 dealing with Environmental Matters, listed a limited number of topics to be discussed in respect of Cultural Heritage.

10.3 ISH3 on this topic focused on assessment of heritage assets and in particular for non-designated heritage assets, to this end a note was provided Written Statement of Oral Case ISH3 – Appendix H – Note on Archaeological Mitigation Strategy for Non-designated Heritage Assets (document reference: 18.7.8, REP3-063).

10.4 Historic England (HE), BDC and HBBC have concluded that ES Chapter 13 Cultural Heritage (document reference: 6.1.13, APP-122) is a comprehensive and appropriate assessment of the impact upon the historic environment including nearby designated heritage assets.

10.5 The designated heritage assets within the study area which are identified as being affected by the Proposed Development comprise:

10.5.1 Elmeshorpe Church ruins scheduled monument (List Entry: 1005076);

10.5.2 Grade II listed Church of St Mary, Elmeshorpe (List Entry: 1074693);

10.5.3 Grade I listed Church of St Mary, Barwell (List Entry: 1074229);

10.5.4 Grade II* listed Church of St Catherine, Burbage (List Entry: 1295212);

10.5.5 Grade II * listed Church of St Simon and St Jude, Earl Shilton (List Entry: 1074259);

10.5.6 Grade II listed Church of All Saints, Sapcote (List Entry: 1177924);

10.5.7 Grade II Listed Church of St Michael, Stoney Stanton (List Entry: 1074704);

10.5.8 Grade II Listed Wentworth Arms and Adjoining Stables (List Entry: 1307251); and

10.5.9 Aston Flamville Conservation Area.

10.6 HE, BDC and HBBC have confirmed that sufficient detail on the embedded mitigation incorporated in the Proposed Development has been provided in ES Chapter 13 Cultural Heritage (document reference: 6.1.13, APP-122) to demonstrate how the Applicant has sought to minimise change to the settings of surrounding designated heritage assets.

10.7 HE, BDC and HBBC have confirmed that adequate assessment of the effects on heritage assets has been provided and it can be concluded that the HNRFI would have an impact within the category of 'less than substantial harm' on these designated heritage assets.

10.8 HE defer to LCC on archaeological matters. BDC have provided the LCC conclusions on archaeology in their SoCG, all such matters are agreed subject to requirement 12.

10.9 The Archaeological Mitigation Strategy (AMS) (document reference) is agreed with BDC as providing suitable procedures to address the archaeological programme in respect of known or previously unknown archaeological remains within the DCO Site.

10.10 HE have no objection to the DCO application provided the embedded mitigation is retained.

10.11 At the end of the Examination the position in respect of cultural heritage has been agreed with HE, BDC and HBBC and LCC through BDC, which is demonstrated in the Statements of Common Ground agreed with each authority/organisation (document references: 19.11, REP2-087, 19.1D, 19.2D and 19.3D).

11. Biodiversity

- 11.1 ES Chapter 12 Ecology and Biodiversity (document reference: 6.1.12B, REP7-024) has been prepared in accordance with paragraphs 5.20 to 5.38 of the NPSNN as agreed in Statements of Common Ground with HBBC (document reference:19.2D), BDC (document reference: 19.1D) and Natural England (NE) (document reference: 19.10B, REP4-139).
- 11.2 The agenda for Issue Specific Hearing (ISH) 3 dealing with Environmental Matters, listed a limited number of topics to be discussed in respect of Ecology and Biodiversity.
- 11.3 Matters of discussion included:
 - 11.3.1 Protected Species Assessment which is now addressed through the Letters of no Impediment provided by Natural England: (document reference: 18.15.4, REP5-034).
 - 11.3.2 Shadow Habitats Regulation Assessment (sHRA), which the Applicant provided a note on Written Statement of Oral Case - Appendix E – Biodiversity Note on Nitrogen Deposition and sHRA (document reference: 18.7.5, REP3-060).
 - 11.3.3 Extension to Burbage Common – the Applicant confirmed that it does not propose any formally designated “common land” however a note was provided to confirm the securing mechanism for access to Burbage Common (document reference: 18.6.9, REP3-054).

Matters agreed

- 11.4 All matters are agreed with Natural England following agreed updates to the CEMP and requirement 7, record of this agreement is set out in the Statement of Common Ground between Natural England and the Applicant (document reference: 19.10B, REP4-139). Agreements include:
 - 11.4.1 There would be no adverse ecological impacts from air quality, dust, lighting, noise, surface water pollution events.
 - 11.4.2 There will be no significant recreational impacts on off-site woodland. The WMP secured under Requirement 21 will protect woodland. Appropriate buffers from designated woodland sites would be provided and it is agreed with Natural England that these buffers will be maintained and during both the construction and operational period to ensure no adverse impacts on the SSSI.
 - 11.4.3 The Agricultural Land Classification survey methodology used is appropriate and as the loss of ‘best and most versatile’ agricultural land is under 20 ha the development falls outside the scope of the Development Management Procedure Order (DMPO).
 - 11.4.4 Letters of no Impediment for Bats and Badgers have been received from Natural England and submitted into the Examination.
 - 11.4.5 The removal of T486 veteran oak tree is agreed. To compensate for the loss of the tree the trunk, stem and significant limbs are to be left intact in large sections at the edge of the woodland. This will allow them to decay and serve as a source of deadwood. Natural England also acknowledge the delivery of 600 new individual trees and 20ha of woodland. The Applicant’s position is for the reasoning explained at paragraph 12.10, the loss of a single veteran tree is ‘unavoidable’ (NPSNN 5.32)
 - 11.4.6 A combined total of 10% BNG will be provided through a combination of on site and off site measures.
 - 11.4.7 The site lies a significant distance from any protected landscapes, thus no impacts on these are anticipated.

11.5 The following matters have been agreed with the BDC and HBBC through their Statements of Common Ground (document reference: 19.1D and 19.2D):

- 11.5.1 Sufficient Phase 1 and Phase 2 surveys have been carried out, phase 2 surveys have been carried out in accordance with standard guidance and at optimal survey periods and were inclusive of bat emergence / re-entry surveys.
- 11.5.2 The majority of search areas for ecological receptors.
- 11.5.3 Updated Great Crested Newt (GCN) surveys will be undertaken prior to any habitat loss.
- 11.5.4 The appropriate Biodiversity Net Gain (BNG) Metric was used at the time of assessment.
- 11.5.5 Suitable future bat surveys will be carried out in accordance with any relevant updated guidance.
- 11.5.6 Proposed mitigation considered appropriate for wet ditch habitat retention and protection, re-routing of the stream, badger mitigation, bat mitigation during construction and consideration of fragmentation. Further details on appropriate mitigation to be provided through the design process and agreed under local authority requirement discharge.
- 11.5.7 The Ecological Mitigation Management Plan (EMMP) (document reference: 17.5, APP-363) and Construction Environmental Management Plan (CEMP) (document reference: 17.1B, REP6-011) have given appropriate consideration to GCN.
- 11.5.8 The updated Biodiversity Metric has been agreed. The Biodiversity Impact Assessment (BIA) report will be provided at detailed design stage as part of the BNG Strategy.
- 11.5.9 The use of off-site BNG land will be delivered through a suitable mechanism and its calculation and delivery will be agreed with the planning authority and reviewed by a suitably qualified ecologist.
- 11.5.10 Each detailed Landscape Ecological Management Plan (LEMP) (document reference: 17.2B, REP6-016) will prescribe management measures in line with the Habitat Condition Assessments and will include reference to BNG.
- 11.5.11 Requirement 21 Woodland Management Plan has been agreed.
- 11.5.12 The proposed buffer and screen planting to offsite designated and ancient woodland are appropriate.
- 11.5.13 There are no ecological concerns in relation to lighting, air quality or noise with suitable protections built into the CEMP (document reference: 17.1B, REP6-011) or requirements.
- 11.5.14 Requirement 19 Ecological Mitigation Management Plan is agreed.

11.6 Outstanding matters with BDC and HBBC:

- 11.6.1 The Applicant presented analysis of survey results for water vole, otter and badger in the main text of the ES Chapter. LUC on behalf of BDC and HBBC consider these survey results should be provided separately. The Approach taken by the Applicant is the standardised approach in accordance with CIEEM guidance.
- 11.6.2 The barbastelle search radii is a matter of disagreement between the Applicant and BDC and HBBC. LUC on behalf of BDC and HBBC considers that guidance in the form

of Davidson-Watts, I. & Zeale, M. (2017) The Barbastelle Bat Conservation Handbook. Pelagic Publishing, Exeter for barbastelle search radii is correct and sets a search radii of 10km. The Applicant however refers to the latest version of bat survey guidelines (Collins, J (ed.) (2023) Bat Surveys for Professional Ecologists: Good Practice Guidelines (4th edition), The Bat Conservation Trust which stipulates that zones for barbastelle maternity routes should be considered within 6km.

- 11.6.3 In terms of presence of barbastelle a single barbastelle has been recorded through static detector surveys and the 6km data search from the site boundary identified no known barbastelle maternity roosts. In addition there are no statutory designations for barbastelle within 10km of the site. The difference of opinion is considered to be immaterial on this basis.
- 11.6.4 LUC on behalf of BDC and HBBC consider that a matrix of effects should have been part of ES Chapter 12 to help guide the reviewer in respect of impact guidance. The Applicant considers that this is not a requirement as The CIEEM Guidelines For Ecological Impact Assessment in the UK and Ireland states 'A matrix approach is commonly used in EIA by disciplines other than ecology to assign significant residual effects to categories (e.g. major, moderate, minor). In many cases, its use is required to provide consistency across all the topics of an Environmental Statement. These [CIEEM] guidelines avoid and discourage use of the matrix approach and categorisation'.
- 11.6.5 LUC on behalf of BDC and HBBC consider that a decommissioning plan should be included despite the nature and longevity of the proposed development. They state that this high-level assessment should be revisited and formally submitted and approved prior to decommissioning. The Applicant maintains its position that a decommissioning plan at this stage has little to no value as set out in the Applicant's response to First Written Question 1.0.8 'Building life and Maintenance Assessments' (document reference: 20.1, REP4-141).
- 11.6.6 LUC on behalf of BDC and HBBC consider that the scheme fails to demonstrate the delivery of a feasible strategy to deliver at least 10% BNG. LUC do agree with the BIA, however, and accept that a detailed BNG assessment will be required at the detail design stage, as is standard practice. BNG for NSIPS is not mandatory until 2025, however the applicant has committed to delivering an overall total of 10% BNG through a combination of on and off site gains, secured by Requirement 19. Several providers operate in the District and the Applicant has been in discussions with a number of these providers, should all of these providers fail to deliver there is the option as a last resort to obtain statutory credits. The Applicant is certain that 10% BNG will be achieved in light of the opportunities and mechanisms available to do this.
- 11.6.7 LUC requested mammal underpasses under the proposed A47 Link Road. The Applicant's position is that mammal underpasses are unnecessary, especially given the woodland habitats to the west of the existing main sett. The draft badger licence has been agreed with Natural England, who are content (subject to updated survey work and the inclusion of additional foraging resource) that the proposed mitigation is broadly acceptable. As Natural England will grant the licences and have not raised the need for mammal underpasses it is considered that due to the location of the existing main sett and the proposed mitigation there will not be a need for mammal underpasses and there will be no detrimental impacts to mammals.

Conclusion

- 11.7 It is considered that the proposed development has been designed as far as possible to limit the impacts on biodiversity. This approach will continue through detailed design and management plans which are secured by requirements 4 Detailed design approval, 7 Construction Environmental Management Plan, 19 Landscape Ecological Management Plan, 20 Ecological Mitigation Management Plan, 21 Landscape Scheme, 26 Control of Operational Noise, 29 Biodiversity Net Gain, 30 Lighting, 31 Woodland Management Plan. Appropriate

mitigation measures are an integral part of the HNRFI project, and delivery is secured (NPSNN 5.36).

12. Design

- 12.1 A SRFI is by definition (NPS-NN Footnote 42) a 'large multi-purpose rail freight interchange and distribution centre linked into both the rail and trunk road system.' From the outset the Applicant has sought to achieve good design within the proposals for HNRFI. No one discipline has dictated the form and layout of HNRFI. Properly the design has evolved from a balanced consideration of a wide range of environmental issues that impact upon design. The evolution of the design is as described in the ES Chapter 4 Site Selection and Project Evolution (document reference: 6.1.4, APP-113).
- 12.2 The compelling need for an expanded network of SRFIs is reliant upon massive investment decisions being made within the context of a commercial framework. This compelling need will not be addressed unless proposals will function efficiently as an intermodal freight facility. The Applicant is committed to ensuring HNRFI achieves a high standard of sustainability, and quality of design as established through the principles set out in the Design Code (document reference: 13.1C, REP7-051).
- 12.3 The Applicant has responded appropriately and proportionately to the comments made by the consultant representing BDC/HBBC on design matters. A matter not agreed within the Statement of Common Ground with the relevant authorities is the consideration whether HNRFI satisfies 'good design' in the NPS (paragraph 4.28-4.35) with particular reference to the alleged impact of HNRFI on the surrounding landscape.
- 12.4 Necessarily an efficient, functioning intermodal railport will be occupied by logistics businesses requiring large volumetric space. Hence large scale built form is required. The railport itself will similarly have a visual impact arising from on-site infrastructure, and container stacks. The observations from the Councils that the built form of HNRFI does not reflect local traditional built form is considered misplaced. HNRFI introduces new national infrastructure on a greenfield site. By necessity the form and scale of development will have some residual visual impact beyond the site itself. The design of HNRFI has sought to minimise the residual impacts through structural landscaping, including extensive tree planting, and bunding.
- 12.5 The built form of a SRFI is necessarily distinct to the domestic scale of architecture that typifies the rural area. Indeed a locational advantage of HNRFI is that its built form will be situated distinctly between the railway and M69. As such HNRFI does not abut an established pattern of built development. The large scale of HNRFI will create its own sense of place and identify.
- 12.6 The Government acknowledges that a countryside location may be required and the opportunities for developers to identify viable sites will be limited. The primary driver of location is the '*need for effective connections for both rail and road.*' (NPS-NN 2.56). In acknowledging:
- The need for a SRFI to meet the rail related warehousing needs in Leicestershire, and
 - The fact such a scale of development cannot be accommodated within the confines of an urban area.
- Then it should be accepted as a matter of reality that the form and scale of development will be different to the typically domestic scale of buildings in a rural area.
- 12.7 For some it appears that the Parameters Plan may have been misunderstood. The development zones are not intended for 'wall to wall' building, servicing areas and car parking. Extensive on-plot landscaping will be provided as an integral part of the details through Requirement 4.
- 12.8 The NPS-NN specifically acknowledges the limitations SRFIs can contribute to 'the enhancement of the quality of the area.' (NPS-NN 4.30). The Applicant is firmly of the view that the principles established in the Design Code, which together with the Parameters Plans, provide the overarching framework for the submission of design details will deliver an aesthetically pleasing SRFI – with a very high quality built environment – as an attractive place to work and for businesses to conduct their activities. These features will be delivered with

HNRFI making a very substantial response to the drivers of need for an expanded network of SFRIs.

- 12.9 The removal of Veteran Tree (T486) was discussed at ISH3 and in written responses. The removal of the tree is informed by the very specific gradients that a rail line can be set at (max 1:200), the curvature of the rail lines to access the areas that have been defined with having the ability to be rail connected (min 150m internal radii), and also the standing level of the sidings where the rail wagons with the containers upon them would be (max 1:500). These defined parameters, in turn, influence the plateau levels where they are proposed. In addition, the scheme also has to respect the existing levels that surround the main development plateaus, and tie into those as well as the new highway infrastructure levels and finally achieve a cut/fill balance across the site to avoid the exportation of material from the site. In terms of construction, the development areas will initially receive a topsoil strip to take it down to a reduced level, which will then be subject to the earthworks cut and fill process in line with the agreed levels strategy as well as any earthworks stabilisation that is required as an output of the detailed ground investigation. For the buildings, this is followed by a buildup in levels to achieve the desired FFL, which will include the subbase, and concrete floor slab, the thicknesses of which, will be subject to the bearing capacity of the ground, the load they are designed to take as well as any individual occupier requirements such as imposed mezzanine floor loadings. The areas that surround the buildings, such as the yard and parking areas, will be subject to their own detailed buildup process but ultimately need to relate to the level of the building for operational and access purposes. Unfortunately due to these factors the tree cannot be retained however compensation for the loss of the tree can be considered adequate as 600 individual trees will be planted and circa 20,000 woodland trees.
- 12.10 Of course, with the early stages of construction HNRFI will be a massive civil engineering project, and some degree of disturbance to the local area is inevitable. The level of disturbance will be minimised through the provision of the Requirements, including Requirement (7) Construction Environmental Management Plan and Requirement 16 (Construction Hours). As landscaping takes effect and high-quality buildings are completed, HNRFI will become more assimilated into the local area.
- 12.11 The achievement of 'good design' plays a key role in achieving the future success of HNRFI as a national if not international location to meet the intermodal freight requirements of the modern logistics sector.

13. Noise and Vibration

- 13.1 The NPS-NN (paragraph 5.195) sets out the aims in addressing noise and vibration from new national infrastructure, within the context of Government policy on sustainable development. The Applicant has undertaken a comprehensive assessment of the effects of HNRFI from noise and vibration, within the Environmental Assessment (Chapter 10) (document reference: 6.1.10A, REP4-039). It is agreed with the relevant authorities' specialists (BDC/HBBC) and their consultants, that Chapter 10 has been prepared in accordance with the methodology set out in NPS-NN.
- 13.2 The NPSNN (5.194) requires that the project should demonstrate good design through optimisation of scheme layout, to minimise noise emissions. The Applicant has explained in the ES Chapter 4 Site Selection and Evolution (document reference: 6.1.4, APP-113) and the Design and Access Statement (document reference: 8.1, REP7-044), the evolution of the design which has included consideration of positioning of the rail port within the centre of the site. For the reasons explained, it is submitted that the Parameters Plan has optimised the layout for efficient operation of an intermodal freight port.
- 13.3 The NPSNN does not require an Applicant to demonstrate that the activities at a SRFI are inaudible beyond the site. Rather the Government's policy, consistent with achieving sustainable patterns of development, is to avoid *'significant adverse impacts on health and quality of life from noise as a result of the development'* (NPS-NN 5.195).
- 13.4 The NPS further requires the Secretary of State to be satisfied that the proposal will:
- 13.4.1 *'Mitigate and minimise other adverse impacts on health and quality of life from noise from the development, and*
 - 13.4.2 *Contribute to improvements to health and quality of life through the effective management and control of noise, where possible'.*
- 13.5 These provisions are given effect through the provisions of the Parameters Plan, which defines the development and specific Requirements, including:
- 13.5.1 Requirement 4 (v) (Design detail of acoustic barriers);
 - 13.5.2 Requirement 7 (CEMP);
 - 13.5.3 Requirement 16 (Construction Hours) (Control of Operational Noise); and
 - 13.5.4 Requirement 26 (Acoustic Barriers).
- 13.6 The ExA raised written questions and requests for information (ExQ2) on 19 January 2024. The remaining points raised on noise and vibration in ExQ2 related to:
- 13.6.1 Drafting amendments to Requirements 27 dealing with Acoustic Barriers – to ensure that the acoustic barriers are completed before the noise sources they are designed to mitigate generate noise (whether during construction or operationally).

Baseline and Off-site Rail Movements

- 13.7 The Applicant has responded to the ExA Rule 17 letter dated 20th February 2024 (document reference: 22.3, REP7-077) which arose from the representations of Dr Moore and Mr Moore, Jr. The Applicant provided a full and appropriate response to the matters raised by Dr Moore and Mr Moore, both in written representations and orally at the ISH. There remains a fundamental disagreement on the methodology for the assessment of noise between the Applicant and the 'Moore's'. While the Applicant's response is not accepted by Dr Moore and Mr Moore, the approach to noise assessment i.e. the methodology and the outcomes of the assessment are agreed with the Authorities and their professional advisers. The matters of disagreement with Dr Moore and Mr Moore have been set out in the Applicant's response to

Deadline 6 Submission [Part 10 Residents' Businesses] (document reference: 18.20, REP7-068).

- 13.8 In so far as a main matter of concern for the 'Moores' is the potential noise effect from additional freight trains using the Nuneaton to Felixstowe railway, the Applicant's position is twofold.
- (I) The Nuneaton to Felixstowe is a Strategic Freight Network as a core trunk route for the movement of goods from the ports and within the regions of the UK: Network Rail allocates 'rail paths' for the movement of both passenger and freight trains. The available rail paths for freight trains on this length of railway could be taken up whether or not HNRFI is developed, as it is part of a strategic route to and from the Midlands and the North. Network Rail's authorising legislation permits it to intensify use of the railway.
 - (II) Notwithstanding (8.24.1) above, the Applicant has undertaken a noise assessment arising from the projected increase in freight train movements. The assessment has shown that the noise emissions have a negligible impact upon the existing noise environment.
- 13.9 At the end of the Examination the position in respect of noise and vibration has been agreed with the expert professional officers and advisers at Blaby District Council and Hinckley and Bosworth Borough Council, which is demonstrated in the Statements of Common Ground agreed with each authority (document reference: 19.1D, 19.2D, 19.3D, 19.6b, REP7-072).
- 13.10 Three matters relating to noise have not been agreed with BDC/HBBC namely:
- 13.10.1 Operational Phase Noise Assessment – Maximum Noise Levels from 'soft dock technology'.
 - 13.10.2 Operational Noise and Vibration Assessment Deliverability of the acoustic barriers without significant removal of existing vegetation.
 - 13.10.3 Operation Noise and Vibration Assessment – summary and conclusions – which depends upon the resolution of (i) and (ii) above.
- 13.11 In terms of 'Soft-dock' Technology the information requested by the local authorities was submitted to the Examination. The evidence is empirically based from the operations at East Midlands Gateway SRFI. The Soft-dock technology is secured through the provision of Requirement 26, with reference to 'details of automated hardware and software to lift and place containers'.
- 13.12 In terms of Acoustic Barriers and Existing Vegetation, the Applicant provided at Deadline 4 (document reference: 2.30, REP4-026) detailed plans showing the position of the proposed acoustic fence adjacent to the Aston Firs Gypsy and Traveller Site. A section was provided demonstrating how existing hedging will be retained. It is acknowledged that bramble growth will need to be cleared, but this bramble does not form part of the existing hedgerow.
- 13.13 The Applicant submits that the two items raised by the BDC/HBBC are satisfactorily addressed. No other matters are raised which affect the summary and conclusions of the operational noise and vibration assessment. The Applicant submits that on the basis the two items raised by BDC/HBBC have been addressed satisfactorily, the third item (Summary and Conclusions) is consequently also addressed.
- 13.14 The Applicant has provided a response at Deadline 7 explaining why the Applicant's methodology for the assessment of noise arising from HNRFI is robust and the conclusions from the assessment are robust. HNRFI demonstrates good design through optimisation of the scheme layout to minimise noise emissions (NPS NN Para 5.194). The use of landscaped bunds and noise barriers is provided for to reduce noise emissions in appropriate locations on the site boundary. It is submitted that HNRFI will:

- 13.14.1 avoid significant adverse impacts on health and quality of life from noise as a result of the new development;
- 13.14.2 mitigate and minimise other adverse impacts on health and quality of life from the new development; and
- 13.14.3 contribute to improvements to health and quality of life through the effective management and control of noise, and is therefore compliant with the NPS-NN (para 5.195).

14. Landscape and Visual

- 14.1 ES Chapter 11 *Landscape and visual effects* submitted as part of the application (document reference: 6.1.11B, REP4-041) was prepared in accordance with paragraphs 5.143-5.161 of the NPSNN.
- 14.2 The ES Chapter identifies a number of significant adverse landscape effects, these effects are unavoidable given the nature and locational requirements of the scheme. The assessment has identified that mitigation has been shown to be effective in creating a softened development and one where Green Infrastructure is an integral part of the design.
- 14.3 There would be significant effects from representative viewpoint locations, principally users of the PRoW throughout the local area. There is a reduction in the number of significant effects at year 15 demonstrating that landscape mitigation is effective. With mitigation in place the assessment identifies that there are no significant effects on the most sensitive receptors in Burbage Common and Woods Country Park. Where significant effects are identified in longer range views, these are in the main in isolated locations where there is an opportunity for a view from an elevated vantage point.
- 14.4 For the most part the assessment has identified that the Proposed Development is not visible within the wider landscape with significant effects largely contained within 1km. The assessment identified significant effects across 20 residential receptors. The scale of the Proposed Development in an existing rural landscape means that it would not be possible for mitigation to reduce all residually significant effects. This accords with the statement in NPSNN that identifies in paragraph 4.84'...*Due to these requirements, it may be that countryside locations are required for SRFIs*'.
- 14.5 Landscape and Visual Assessment was an agenda item for Issue Specific Hearing 3 (ISH3). Matters discussed, covered the following issues:
- Parameters of the design of the landscaped mounds – this is set out in the project description, ES Chapter 3 (document reference 6.1.3, APP-112) and the parameters plan, ES Figure 3.2 (document reference 6.3.3.2, APP-231).
 - Lighting effects and mitigation – daytime and nighttime effects are assessed within ES Chapter 11 *Landscape and visual effects* (document reference 6.1.11B, REP4-041). The Applicant further prepared a note as an appendix to its Written Statement of Oral Case – *Appendix G M69 Lighting Proposals and associated effects* (document reference: 18.7.7, REP3-062)
 - Design codes, Design and Access Statement, and mitigation – the Design Code (document reference 13.1C, REP7-051) and Design and Access Statement (document reference 8.1BC, REP7-044)

Matters agreed

- 14.6 The following matters have been agreed with BDC and HBBC in their respective Statements of Common Ground (19.1D and 19.2D):
- Requirement 19 Landscape Ecological Management Plan is agreed with HBBC, BDC have asked for a minor amendment to Requirement 19 after Deadline 7 making reference to remedial measures, it is not necessary to add this to the requirement as it is built into the management plan.
 - Requirement 21 Landscape Scheme is agreed.
 - Matters contained within the CEMP (document reference: 17.1B, REP6-011) pertaining to visual impact (the CEMP secured through Requirement 7) are agreed.
 - LVIA methodology is agreed in respect of the published landscape areas within BDC and HBBC.
 - Methodology for assessing night-time lighting effects is agreed.
 - Viewpoint locations for landscape and visual baseline are agreed
 - The landscape and visual baseline assessment study area was agreed during pre-application consultation.

- The landscape and townscape receptors were agreed during pre-application consultation.
- Residential dwellings to be considered in the LVIA were agreed during pre-application consultation.
- Baseline descriptions of lighting in relation to individual landscape and visual receptors are agreed
- The night-time construction effects for LCA 1: Aston Flamville Wooded Farmland, LCA 6: Elmesthorpe Floodplain, and LCA 15: Stoney Stanton Rolling Farmland are agreed.
- The growth rates that have been assumed in the year 15 photomontages are agreed.

Outstanding matters

- 14.7 LUC on behalf of BDC and HBBC consider that a number of landscape receptors will experience significant residual effects. Those locations are SCA Elmesthorpe, SCA Burbage Common Rolling Farmland, and UCA 9: Barwell. The Applicant does not agree that the receptors will experience significant effects. The Applicant has applied the methodology as agreed by both parties in a clear and consistent manner. LUC do not accept that assessment in these instances. The difference between the parties is a subjective matter regarding the degree to which the change will affect each character area as a whole.
- 14.8 LUC on behalf of BDC and HBBC consider that visual receptors on the PRoW at PVP3 will experience significant residual effects due to the proposed roofline and lighting columns remaining partially visible at close proximity. The Applicant does not agree that the receptors will experience significant effects, the columns will be visible from certain locations, but would be a small component of the view, seen intermittently, this is demonstrated in ES Figure 11.16 (document reference: 6.3.11.16, APP-300).
- 14.9 LUC on behalf of BDC and HBBC believe that a number of identified visual receptors will experience significant adverse night time effects at construction. Based on the application of the methodology which has been agreed by all parties through the SoCG the value attached to the night time views is low and the sensitivity of the residential receptors at night is also low on account of the properties themselves being lit and less susceptible to change as activities are internalised within the hours of darkness. With construction lighting limited to crane lights and targeted work lights, the assessment of effects is low, therefore the Applicant does not agree with BDC and HBBC on this point. Lighting measures during construction are controlled through the CEMP (document reference 17.1B, REP6-011), which is secured through Requirement 7.
- 14.10 LUC on behalf of BDC and HBBC have stated that they believe that a number of receptors will experience significant adverse residual night-time effects at year 15. The Applicant does not agree that these receptors will experience significant adverse residual effects. The assessment has been completed in line with the methodology agreed by all parties and with reference to the night-time views and photomontages ES Figure 11.12 (document reference 6.3.11.12A, REP4-076). The effect of operational lighting is mitigated through targeted lighting, cowls and planting. This is set out in the lighting strategy (document reference 6.2.3.2A, REP7-026) and secured through Requirement 30. When taking these measures into account alongside the existing baseline lighting levels and the sensitivity of the receptors, the Applicant believes that the assessed levels presented in the ES chapter are correct. LUC do not accept that assessment in these instances. The difference between the parties is a subjective matter regarding the degree to which the change will affect each view.
- 14.11 LUC on behalf of BDC and HBBC do not agree that the landscape measures set out in the LVIA and Landscape Strategy will mitigate the effect of the development on the identified receptors. The root of this disagreement is the approach to design. LUC are of the opinion that mitigation could be more effective if the design were more 'landscape led'. The Applicant has made representations on this point (document reference 18.14, REP4-133). LUC's position appears to stem from a starting point that this is a standard application for commercial use and the same design principles can be applied. However, as the Applicant has described, the nature of the development is such that functionality is more prevalent in the design decision making process. That being said, the Applicant is also of the view that the landscape strategy has responded to the existing landscape as far as reasonably practicable. The resulting mitigation

is as effective as has been demonstrated in Chapter 11 and through the presentation of Photomontages at Figure 11.16 (document reference: 6.3.11.16, APP-300). Again, the methodology has been agreed by all parties through the SoCG and the Applicant has applied this methodology in a consistent and transparent measures and therefore believes that all effects have been correctly assessed. The mitigation is set out within the Landscape Strategy (document reference 6.3.11.20B, REP7-043) which is secured through Requirement 21 which is a matter agreed through all parties.

Conclusion

14.12 It is considered that the proposed development has been designed as far as possible to limit the impacts on landscape and visual impact, however given the nature of the development and the locational needs of nationally significant infrastructure, it is acknowledged that there will always be some residually significant landscape and visual effects. A comprehensive package of design measures and landscape mitigation has been proposed as part of the application, however, landscape mitigation cannot realistically fully obscure buildings of the proposed scale, or the components of an inter-modal railport, in this regard the policy requirements set out within NPSNN apply. Paragraph 5.149 states:

'Projects need to be designed carefully, taking account of the potential impact on the landscape. Having regard to siting, operational and other relevant constraints, the aim should be to avoid or minimise harm to the landscape, providing reasonable mitigation where possible.'

14.13 Further paragraph 5.158 states:

'The Secretary of State will have to judge whether the visual effects on sensitive receptors, such as local residents and other receptors, such as visitors to the local area, outweigh the benefits of the development.'

14.14 The approach that has been taken with regard to landscape and visual impacts will continue through detailed design and management plans which are secured by requirements 4 *Detailed design approval*, 7 *Construction Environmental Management Plan*, 19 *Landscape Ecological Management Plan*, 21 *Landscape Scheme* and 30 *Lighting*.

15. Public Rights of Way

Matters Agreed

- 15.1 LCC have confirmed that the detail of the Outwoods Bridge is considered to be acceptable on plan 2.32 (document reference: 2.32, REP5-006). This is confirmed in the LCC SoCG (document reference 19.7B)

Outstanding Matters

- 15.2 LCC are concerned as to the deliverability of the PRoW proposals. The site is of a considerable size with ample space to accommodate the new Public Rights of Way network through the site and connecting to the Right of Way Network outside of the site. The Applicant shared a drawing illustrating PROW widths, gradients and routes with LCC on 28th September 2023 in response to emails raising queries and concerns about various elements of the PROW provision. In a further meeting on 23rd November 2023, LCC requested sections through the PROW provision around the site to demonstrate the width provided and that they were deliverable with due regard to boundary and development plateau levels. A series of section drawings was provided to LCC on 27th November 2023 via a Sharepoint Link, receipt of which has subsequently been acknowledged by LCC. These section drawings were discussed at a meeting on 12th December 2023 and no further comments have been received by the Applicant.
- 15.3 Appendix 11.2 Public Rights of Way Appraisal and Strategy (document reference 6.2.11.2D, REP7-033) confirms that the that the detailed design of routes including surfacing and access arrangements will be in accordance with the most up to date version of the Rights of Way Section of LCC's Highway Design Guide. It is therefore considered that PRoW proposals can be delivered and in accordance with the LCC standards.
- 15.4 Details of the A47 underpass were shared by email on 28th September 2023 in response to a number of comments from LCC relating to concerns about various elements of the PROW provision, receipt of which has subsequently been acknowledged by LCC. These were further discussed in a meeting on 12th October 2023 with no further comment received by the applicant from LCC since this date except in relation to who the adopting authority for the structure would be. The details of the underpass will be developed further using the processes set out in DMRB CG300 (Technical Approval of Highway Structures). Further detail which will come through during detailed design is secured by Requirement 4.
- 15.5 LCC wish to have bridleway V35/1 through the Aston Firs Gypsy and Traveller site stopped up. The route is currently not maintained and there is no demonstrable need for the HNRFI proposals to effect the closure of this section of bridleway. This request was made post submission of the application and to use the powers of the DCO to effect this change would have required such a proposal to be included in the statutory consultation. During the consultation process, including consultation with the community at Aston Firs, this request was never raised.
- 15.6 A request has been made by LCC to undertake a risk assessment of Thorney Fields Farm bridge. The Road Safety Auditor was contacted with details of the bridge however the auditor advised that the arrangement proposed is common and that there are no immediately obvious safety concerns here. Network Rail have also upgraded this bridge and installed 1.8 metre parapets either side. If however, at the detailed design stage a safety audit should be required, the Applicant will of course provide this.
- 15.7 The Stage 1 RSA for the crossing at the B581 Elvesthorpe has been an outstanding matter, the Stage 1 RSA for this crossing has now been returned with the auditor being satisfied with the amendments made to the design in response to the interim audit submitted to the Examination at Deadline 4 (REP4-151). This is set out in the Stage 1 RSA report submitted at Deadline 8 (document reference: 21.1.1).
- 15.8 LCC have requested amended details of the private access to Bridge Farm. This again is something which can be addressed at detailed design secured by Requirement 4.
- 15.9 It is considered that PRoW can be delivered in accordance with the NPSNN paragraph 5.184.

16. Traffic & Transport

16.1 At the outset, it has to be stated that the Applicant has been particularly disappointed with what it regards as a lack of constructive engagement from Leicestershire County Council as the local highway authority particularly at the pre-submission stage. Whilst the County Council may be opposed to the scheme at a political level, their unwillingness to agree even the most basic issues, to define the extent of disagreement, or to present any evidence by way of a counter to the Applicant's conclusions has, in the Applicant's view, sought to frustrate the process.

16.2 Repeatedly, the response to the Applicant's submissions has been a request for increasing amounts of information and further modelling. The Applicant has endeavoured to provide information that has been reasonably required by the highway authorities. None of this information and re-modelling has changed the fundamental conclusions of the assessment, nor resulted in new junctions needing to be brought forward for mitigation. However, on the basis the Applicant has not been willing to acquiesce to all demands, the County Council has declined to enter Planning Obligations, even though it would be without prejudice to any objection they may wish to raise. This is a regrettable situation but exemplifies the Applicant's characterisation of their approach throughout.

16.3 A brief summary of highways and transport matters is provided below:

- The applicant's position on transport and highways matters has ostensibly remained unchanged from submission of the DCO.
- Significant work and discussion took place prior to submission, including agreement to the use of the appropriate model - the Leicestershire Pan Regional Transport Model - (and the running of three full versions of it), and appropriate inputs to the modelling.
- Ordinarily it is the model inputs that the Highway Authorities spend time agreeing, as the model outputs are just that - the outputs. In this instance, despite agreeing the appropriate model and the inputs to it, LCC and NH in particular, have continually queried the outputs, asserting that they do not accurately reflect their understanding of the impacts at various junctions on the network. No evidence has been submitted by either party to substantiate these assertions.
- A furnishing methodology was agreed to apportion the modelling outputs at each junction across each arm of the junction based on observed traffic counts.
- LCC and NH refused to engage with these furnished flows, claiming that they may not be representative of movements at junction now. Updated observed flows were collected in November 2023 and updated furnishing undertaken for the mitigated junctions. This showed a reduction in traffic and a reduction in impacts across these junctions.
- The applicant has nevertheless maintained its commitment to the originally identified junction mitigation schemes based on the transport assessment included on submission of the DCO, such that the assessment is considered to be robust.
- Further detailed changes from the highways authorities have been continually requested at individual junctions, with various requests to use specific detailed junction models.
- Where authorities have engaged positively with the applicant, substantial resolution of matters has been achieved, as is the case with Warwickshire County Council.
- Where authorities have hidden behind assertion that the 'strategic' modelling and furnishing were inappropriate, despite agreeing their use and methodologies, progress has been significantly less.
- LCC's approach was clearly illustrated at ISH 6 where they stated that they did not see that they would reach agreement with the applicant on any further matter.
- NH's approach was more guarded, but again failed to grapple with a proper review of the applicant's submitted position.

- This is clearly illustrated in the absence of a response to the Applicant's Comments on Local Impact Reports [Appendix D – National Transportation Policy Response] (document reference 18.4.4). This clearly set out the applicant's position on the issues at the heart of disagreement with LCC and NH, namely whether impacts at M1 Junction 21/M69 Junction 3 were severe.
- The applicant's position is that impacts of the development are not severe at either this junction, or for that matter any other junction on either the Strategic Road Network (SRN) or local highway network.
- M1 Junction 21/M69 Junction 3 is an existing congested junction on the SRN. NH had previously identified an improvement scheme (smart motorway) here to resolve the mainline flows, but this scheme was subsequently withdrawn.
- Identified impacts at the junction, before taking account of the Sustainable Transport Strategy (document reference 6.2.8.1E, REP7-028) commitments are within generally accepted daily flow variations. To categorise these impacts as severe would effectively place a moratorium on development across Leicestershire until such time as a comprehensive improvement had been provided. [BWB to review this para].
- It is not the aim of policy to protect the convenience of commuting car drivers. The applicant has made substantial commitments to the provision of a holistic package of sustainable travel measures that makes provision for improved pedestrian and cycle connectivity to the site, car sharing, demand responsive transit, and substantial public transport investment. The Sustainable Transport Strategy (document reference 6.2.8.1E, REP7-028) has been demonstrably evidenced to result in achieving real modal shift, comparable to levels achieved by other SRFIs.
- Other junctions, notably the Gibbet roundabout, are also singled-out as 'red flags' by the highway authorities. It is asserted that the junction must be assessed using one modelling tool on the basis that all other schemes in the area have also been required to follow this process. On review, this is clearly not the case, with very limited information in the public domain showing how an assessment has been undertaken/scheme designed to arrive at financial contribution figures included in respective Section 106 legal agreements.
- The applicant has submitted what it considers to be an appropriate and proportionate mitigation scheme – notwithstanding that this is a 'financial exercise' to identify contributions to be put towards an as yet unspecified wider NH improvement scheme. While flows and impacts have been agreed at this junction, no comments have been received on the proposed mitigation scheme design, just assertion that the evidence-based cost plan submitted by the applicant is too low.
- LCC and NH have hidden behind the fact that they have not agreed with the modelling outputs and assessment to delay engaging on design matters, hiding behind this as a defence to engaging on the applicant's proposed mitigation schemes.
- The applicant has in any event commissioned independent third party safety audits, which have identified no fundamental safety concerns at this stage. Further safety audits would of course be undertaken as the detailed design of schemes progressed at a later stage in the normal way.
- The applicant has sought to respond positively to every request made of it for further information from the highway authorities. The only constant has been that, notwithstanding the reduction in impacts following the 2023 furnishing review, the results have had no material impact on the highways mitigation package included at submission.
- The applicant has continued to engage with the highway authorities to try and address other residual concerns. There seems to have been real confusion regarding the implementation of the HGV Route Management Strategy (document reference 17.4E REP7-055), despite this being based on 'exemplar' schemes highlighted by the authorities. NH's contention that advising national logistics operators to avoid the low bridge on the A5 being flouted seems highly implausible.

- The position of the applicant remains that the residual cumulative impact of HNRFI on the SRN and the local highway network is not 'severe'. This has not been challenged by evidence submitted by any of the highway authorities – we only have assertion that impacts may be underestimated, or different modelling tools should have been used, or flows might vary from the modelling outputs produced, or that further sensitivity testing should be undertaken.
- Should a different view be taken from the submitted evidence, and some weight be attributed to the various assertions, it is the applicant's position that the NPSNN does not require mitigation simply to address an increase in delay or congestion. There is a balance required to be struck by the NPSNN that an application can have adverse effects that are not mitigated and nevertheless be acceptable if those effects are outweighed by benefits, in the context of a presumption in favour of granting consent. It is the applicant's contention that the significant benefits of HNRFI far outweigh any adverse impacts of the proposals.

16.4 A more detailed position of the Applicant is set out below;

- 16.4.1 Extracting engagement from the highways authorities on Traffic and Transport prior to submission of the application was unnecessarily challenging. After a period of several years of approaching the TWG with a collaborative outlook, going through 3 model runs using PRTM (the suitable traffic model agreed with LCC), the decision had to be taken that agreement on the outputs and mitigation approach would never be reached prior to a submission due to the local politics in play. The lack of constructive engagement pre-submission on these matters has placed undue pressures on the examination which could have been avoided with collaborative working as opposed to a commitment to do no more than the statutory minimum even with the provision of PPA funding.
- 16.4.2 Throughout the whole of the application process, extensive volumes of information on transport matters were provided to the highway authorities - both prior to submission and during examination. The ExA will be acutely aware that alongside their own requests for additional information on highway matters vast submissions of information have been made by the Applicant at the request of LCC. In the interests of working helpfully and collaboratively the Applicant has expended very significant resources to meet the requests laid down by the highway authorities. The question to answer is what has changed through the preparation of all of the additional highways information, additional modelling and sensitivity testing.
- 16.4.3 The mitigation proposals and understanding of the impacts of the development on the highway network have not changed in the light of any of the additional work demanded by LCC. The additional traffic surveys undertaken in November 2023, confirmed the robustness of the original information as the 2023 traffic surveys indicate decreased traffic at the surveyed junctions. The Applicant however continues to rely on the 2018 observed data with the higher traffic counts, to ensure the traffic modelling can be considered nothing other than robust. The Applicant has responded constructively to requests that have often seemed to be designed to frustrate the process. In consequence the proposals have been assessed from many angles and the outcomes have not led to any change of any substance to the scheme proposals. No evidence has been put forward by either LCC or NH to discredit the Applicant's submissions, LCC have merely maintained the position that junctions should have been assessed differently.
- 16.4.4 Notwithstanding what was set out in the submission application document 18.4.4, REP2-075, National Transportation Policy clearly sets out the Applicants position that highways impacts are not severe.

The Policy Position

16.5 The Transport Assessment and ES Chapter 8 (document reference: 6.1.8, APP-117) have been produced in accordance with the NPSNN. This is agreed with Warwickshire County Council

(WCC) in their Statement of Common Ground (document reference 19.6B, REP7-072) and National Highways in their Statement of Common Ground (document reference 19.7B) . Paragraph 5.213 of the NPSNN acknowledges that SRFIs may give rise to impacts on the surrounding transport infrastructure 'The Secretary of State should therefore ensure that the applicant has taken reasonable steps to mitigate these impacts'.

- 16.6 The NPSNN goes on to state at paragraph 5.215 that mitigation measures should be proportionate and reasonable and focussed on promoting sustainable development.
- 16.7 The Applicant acknowledges that the proposals will result in impacts on surrounding transport infrastructure, and this is what the traffic modelling undertaken has evidenced. The Applicant has responded to this by setting out a proposed suite of transport infrastructure upgrades including the access infrastructure to the site in the form of the southern slip roads and the 'A47' Link Road which has the added benefit of acting as a relief road to Hinckley town. The Applicant is investing circa £80 million into road and rail infrastructure as well as investing in sustainable transport measures in terms of both public transport and active travel measures.

Traffic Modelling

- 16.8 The Transport Working Group (TWG) was initially created in November 2017 and comprised LCC, NH, Leicester City Council (LCiC), Warwickshire County Council and Coventry City Council.
- 16.9 In 2018 it was agreed with the TWG that LCC's Pan Regional Transport Model (PRTM) was the most appropriate tool to use to carry out traffic modelling to understand the impacts of the development on the local and strategic road networks. Although the PRTM model has been updated over the years, it is still the model which LCC ask those promoting developments to use.
- 16.10 The PRTM has been prepared in accordance with the DfT WebTag guidance, therefore its use to assess the proposed development satisfies paragraph 5.207 of the NPSNN.
- 16.11 In 2018 the Applicant's transport consultants ran modelling using PRTM 1.0 and reached agreement on the following 22.11.2018;
 - 16.11.1 Trip Generation
 - 16.11.2 Trip Distribution
 - 16.11.3 Base Forecast Model
 - 16.11.4 Forecast Model Brief
- 16.12 PRTM 2.1 was introduced in July 2021 with the TWG requesting transport modelling be undertaken again. The traffic model update was based on LCC amending how large developments were represented in the model to include details of phasing from the associated transport assessments.
- 16.13 Using PRTM 2.1 the following were agreed:
 - 16.13.1 Trip Generation (with the amendment of increasing trains from 12 to 16 trains per day) -March 2021
 - 16.13.2 Trip Distribution (No change from PRTM 1.0) – November 2018
- 16.14 The following were amended:
 - 16.14.1 Base Forecast Model (to include the phasing information for large developments) March 2021
 - 16.14.2 Forecast Model Brief (At the request of LCC / NH the M1 smart motorway (junctions 19 – 24) was deleted from the uncertainty log) – March 2021

- 16.15 The results of the PRTM 2.1 model forecast were shared with the TWG (July 2021). Before PRTM 2.1 modelling outputs could be agreed LCC advised that PRTM 2.2 had been created (September 2021) and the RIS2 scheme at Dodwells / Longshoot removed by National Highways in August 2021. A sensitivity test was carried out and presented for the removal of the Dodwells / Longshoot scheme which showed negligible impact on this section of the A5 from the HNRFI proposals.
- 16.16 The Statutory consultation was prepared on the basis of the PRTM 2.1 agreements and outputs while PRTM 2.2 then completed during statutory consultation. The results of PRTM 2.2 when compared to PRTM 2.1 were not substantively different.
- 16.17 Using PRTM 2.2 the following were agreed:
- 16.17.1 Trip Generation (unchanged) – October 2021
 - 16.17.2 Trip Distribution (unchanged) – March 21
 - 16.17.3 Base Forecast Model (Narborough level crossing barrier downtime added into the model and Sapcote and Stoney Stanton speed flow curves were amended) – March 2022
 - 16.17.4 Forecast Model Brief (removal of the Dodwells / Longshoot scheme from the uncertainty log) – February 2022
- 16.18 Uncertainty Log (This is a record of assumptions made in the model that will affect travel demand and supply. The log contains near certain planned developments planning and infrastructure and a trajectory for delivery) that will affect demand, and forms as part of the Forecast Modelling Brief, the log was revisited again and final version agreed with all highway authorities (Version 8) Agreement was received from LCC February 2022 and NH May 22. This included the removal of the Dodwells /Longshoot scheme.
- 16.19 The detailed assessment of impacts is set out in section 8 of the Transport Assessment (document reference: 6.2.8.1A, REP3-157).
- 16.20 For the Strategic Highway Modelling the inputs are agreed and processed through a bespoke computer-based transport model. In this case Leicestershire's PRTM. The outputs from the model highlight the locations on the highway network where mitigation would be required in the forecast year. All junctions across the modelled area are reviewed and filtered based on the development traffic impact.
- 16.21 Focused capacity models (LinSIg and Junction 10) and micro-simulation models (VISSIM) are then set up to understand the impacts at an individual junction level. This allows a mitigation scheme to be developed to account for the additional forecast development traffic. In the case of HNRFI the agreed future year is 2036.

Highway Authorities Position on Strategic Traffic modelling

- 16.22 WCC, LCC and NH agreed inputs (outlined at paragraph 14.14) prior to the run of the Forecast Model. WCC have agreed the Rugby Rural Area Model (RRAM) scope and methodology as well as the RRAM outputs. Furnishing approach, timing for delivery of infrastructure.

Furnessing

- 16.23 Furnessing is the process of using predicted traffic volumes and observed traffic flows to forecast how traffic will move at junctions.
- 16.24 The furnessing has been applied as put forward in the agreed methodology which has been signed off by National Highways September 2021 and reviewed by LCC in July 2022. . The Applicant has maintained since the submission of the application that the original 2018 observed flows represented the worst-case from which to furnish the PRTM flows. This was supported by the COVID re-run of the PRTM itself which demonstrated an overall reduction in observed traffic between 2018 and 2023. All models submitted for the application used the 2018 furnished flows using a methodology that has not changed.
- 16.25 During Examination the Highway Authorities stated that they would not review the furnessing until 2023 traffic surveys were undertaken. This was initially resisted due to the COVID re-run results and the Applicant's consultants knowledge and experience of the area, would primarily test turning movements within the future year and would not materially change the outcome or the subsequent mitigation. However in November 2023 new traffic surveys were undertaken and substantial modelling work was carried out. The results of the new surveys and model runs were set out in the Applicants response to Deadline 3 submissions [Appendix B] Transport 2023 Update (document reference 18.13.2 REP4-131). The results of this undertaking showed no substantive changes, the 2018 furnished flows were actually higher than the 2023 flows so in effect the 2023 assessment evidences the robustness of the original modelling and provides surety that the mitigation measures proposed are robust.
- 16.26 Late technical responses from NH queried minor points on the periphery of the PRTM extents- notably at M69 J1 and Cross-in-Hand. These flows had already been tested through the signed off Rugby Rural Area Model, which did not demonstrate a significant impact on the A5. However, sensitivity tests and further agreed flows had been submitted to NH up to Deadline 8 in an attempt to gain agreement.
- Further technical queries from NH notably at M69 Junction 2 connected with furnessing are a result of a new technical team not being briefed on previously agreed positions between the Applicant and NH and a lack of understanding of the background PRTM impacts of the infrastructure changes. It is disappointing that through the many personnel changes that appropriate handovers have not been carried out.
- 16.27 The spreadsheets and methodology have been shared with the Authorities from the very early stages of the project. The Applicant has been transparent in their approach to derivation and has fully complied with suggested changes and amendments.

Rugby Rural Area Model (RRAM)

- 16.28 The scoping and application of RRAM has been agreed with WCC and NH. The modelling has demonstrated minimal impacts on the A5 and the Rugby rural network.

A47 Link Road

- 16.29 The A47 Link Road will act as a relief road to the town of Hinckley. Traffic which previously had to come off at M69 Junction 1 to travel into the northern parts of the town and further afield, with the construction of the southern slip roads and the A47 link road this traffic can now come off at M69 Junction 2. This has the effect of relieving M69 Junction 1 and through the southern parts of Hinckley town and will alleviate rat running through Burbage to get to M69 J1, this is set out in the Transport Assessment (document reference: 6.2.8.1A, REP3-157).

M69 Junction 1

- 16.30 A Base VISSIM model was developed for the junction, this was validated and signed off by National Highways prior to the DCO submission.
- 16.31 For the submission version of the application, the 2036 furnished flows based on 2018 observed data indicated that amendments to the traffic light system, a signal optimization system (MOVA) would be necessary. This was to allow for the change in movement through the junction created by the construction of the M69 J2 Slips.
- 16.32 Following the completion of the November 2023 traffic surveys the 2023 observed data was modelled. The updated modelling included the Padge Hall Farm development, which was approved in late 2023, this model update was provided by NH. The results of a separate VISSIM model for the Dodswell/Longshoot junction were included in the 2023 modelling for M69 J1. The Dodswell/Longshoot model was provided by NH. The revised outputs for M69 Junction 1 confirmed that the traffic light amendments were no longer needed.
- 16.33 Comments received on this modelling from NH post Deadline 7 were addressed directly, the comments were observations or minor amendments rather than fundamental issues with the modelling. The comments received do not have a material impact on the base or forecast model submitted and the conclusions on not needing to amend the MOVA system at this junction still stand.

M69 Junction 2

- 16.34 As detailed in the Furnessing Methodology the approach undertaken for off-site junctions uses the observed turning movements in combination with calculated forecast link flows to furnish future year flow matrices. However, it was considered that this approach is not applicable to M69 J2 as three additional arms will be added to the junction by virtue of the two southern slip roads and the site access. These three arms do not have any base flows, and therefore an alteration to the agreed methodology for furnessing was required for this particular junction.
- 16.35 The proposed scheme will significantly alter the movement at the junction with rerouting of traffic through the junction. Therefore, a different approach for 'Stage 4' of furnessing is taken only for the site access junctions. This methodology utilises observed counts to calculate a more realistic link flow target at the junction, whilst accounting for the redistribution of traffic anticipated at M69 J2. This methodology had been agreed with both NH and LCC prior to undertaking the modelling.
- 16.36 The base flows were processed through a VISSIM microsimulation model, validation of which had been shared with the Transport Working Group during the pre-submission preparation and agreed with the TWG members. Furnessed flows based on the observed 2018 and 2023 flows were run through the forecast models. The model outputs demonstrate that the junction works within capacity and also caters for approximately 2000 additional vehicles in the peak hours. It is considered that the modelling is undertaken with the agreed methodology and is robust in assessing future year impact at the junction.
- 16.37 A Pegasus crossing on the new A47 link road was modelled as a standalone assessment. This accounted for the activation of the crossing once every minute to provide a worst-case assessment. The outcomes were reported within Deadline 2 submissions (document reference: 18.4.2, REP2-073) and indicated that queueing generated by the crossing would not block back to M69 J2. Despite this, LCC requested a further update of the VISSIM model to check the interactions. This has been done as a check- with the conclusions as per the Deadline 3 submission, though has not been submitted to LCC. All points raised by NH up to Deadline 7 do not have a material impact on the modelling conclusions. They are technical observations.

Sapcote and Eastern Villages

- 16.38 Prior to the submission of the application traffic impacts on the eastern villages were closely scrutinised. The significant change for the eastern villages is not from the development but from background traffic re-routing via the new southern slip roads as the development would enter and exit the site from the M69 and would utilise the SRN. The only reason traffic relating to HNRFI would be travelling through the eastern villages would be for deliveries specifically to properties in the eastern villages or employee traffic from the eastern villages. Both of these scenarios create very low numbers of traffic movements.
- 16.39 To assess the impacts on the eastern villages select link analysis was carried out. Select Link analysis looks at the distribution of incoming and outgoing trips through a defined area. Select Link analysis was carried out for the B4669 either side of Stanton Lane.
- 16.40 The Figures for the B4669 demonstrated that there is a significant amount of the traffic passing this point that originates and/or has a destination in the village of Sapcote itself when the new slips are available removing the need for village residents to travel via Hinckley or Sharnford to go south. A small amount going to Stoney Stanton, Huncote and Broughton Astley.
- 16.41 This evidence confirms what can be anecdotally understood by reviewing maps of the local area, once past the large villages of Sapcote and Stoney Stanton there is very little development to the east of M69 Junction 2 across to the M1 motorway.
- 16.42 Select Link analysis was also carried out for each side of Narborough Level Crossing. Further analysis was carried out for Narborough Level Crossing throughout examination and this is referenced in the Rail section below.
- 16.43 As part of the HGV Management Plan and Strategy (document reference: 17.4E, REP7-055) a monitor and manage process has been included for the non HNRFI development HGVs and prohibited routes for the HNRFI HGV development traffic through sensitive villages.

Junction 21

- 16.44 Current capacity constraints at Junction 21 are longstanding and driven by the restricted width of the M1 underbridges on the circulatory carriageway and constraints on the Mainline M1 carriageway, identified through merge/diverge assessments reported within the Transport Assessment (document reference: 6.2.8.1A, REP3-157). Widening of these underbridges to address such constraints would be of a significant magnitude and require considerable Government investment. Whilst there is a clear aspiration from both LCC and NH to improve the junction, there is currently no scheme identified.
- 16.45 As set out in Paragraph 49 of Circular 01/2022 'planned improvements to the SRN or local road network should be considered in any assessment where there is a high degree of certainty that this will be delivered'. Given there is no scheme committed or even foreseeable to address these existing issues at Junction 21, LCC's PRTM2.2 model reflects the current arrangement. This was agreed with the TWG as part of the Infrastructure Log for PRTM2.2.
- 16.46 At the request of LCC, a theoretical assessment has also been undertaken where no background traffic diverts. This does not follow the agreed methodology used for all other junctions within the Transport Assessment. Therefore, it is provided as a sensitivity test only.
- 16.47 The modelling demonstrates the magnitude of impact is negligible in both scenarios, the impact on queues and delay remains marginal. Hence, the impact is not considered to be 'severe' and it is maintained that highway mitigation is not justified.
- 16.48 Further work has been carried out using video data at M69 J1 submitted at Deadline 5 (document reference 18.18 Hinckley NRFI M1 J21 Modelling Notes (Appendices), (document reference: 18.18, REP5-052). This has sought to detail the interactions of queuing with the M1 mainline flows and where they affect capacity on the circulatory carriageway. The evidence suggests that queuing due to well documented mainline flow capacities causes peak hour blocking of the M69 (eastbound) stopline.

- 16.49 In accordance with National Government Policy, the development would seek to limit future traffic growth at the junction through the reduction of single occupancy car trips as secured through the STS and via its contribution to transferring freight from road to rail, which aims to reduce long distance trips on sections of the SRN like M69 and M1. An effect that hasn't been accounted for within the assessment work. However, like the impact of the development itself, the beneficial impact of these measures is considered marginal too.
- 16.50 LCC and NH have suggested that the PRTM should be rerun with unconstrained flows. However, this is a theoretical scenario whereby there is no congestion at J21 and traffic will choose its most convenient route. It would not inform the assessment of the HNRFI and its mitigation package. Rather, it would inform the requirements of an unidentified, unfunded and uncommitted improvement scheme. Hence, undertaking the assessment is considered an unreasonable requirement and contrary to Circular 01/2022.
- 16.51 At Deadline 5 a note titled M1 J21 Modelling Note (document reference: 18.18, REP5-051) was submitted into the examination summarising the current constraints at J21. It has been maintained throughout by the Applicant that improvements to Junction 21 are of a significant scale requiring Government Investment, through a scheme such as Road Investment Strategy (RIS). There is currently no scheme identified for M1 J21 but it is understood that LCC have a desire for a suitable proposal.

Padge Hall farm

- 16.52 The planning approval for Padge Hall Farm was consented in December 2023. However NH had established the VISSIM protocol for the immediate A5 junction in October 2023 earlier in the year. The Applicant was then required to re-model the network using the NH VISSIM model to take account of the consented Padge Hall Farm flows and proposed mitigation to understand the effects the HNRFI traffic has on the Dodswell / Longshoot junctions. This included consideration of additional high-sided vehicles using the A5 as a result of the Nutts Lane Bridge carriageway lowering. As part of this work, M69 J1 Forecast VISSIM model was also updated to include the Padge Hall Farm traffic and high sided vehicles. There was no change to the mitigation strategy required.

Dodswell / Longshoot

- 16.53 NH requested in September 2023 that full use of the Longshoot Dodswell VISSIM is required to align with their new protocol for the A5. This was as the Examination was opening. The Applicant has reviewed the model and updated using input flows based on the updated surveys carried out in November 2023 and the PRTM Forecast model. There was no change to the mitigation strategy.

Gibbet Hill Roundabout

- 16.54 When the DCO application was submitted a scheme was in place for Gibbet Hill Roundabout which was being delivered by National Highways.
- 16.55 Since submission it has been confirmed that National Highways are working on a comprehensive signalisation scheme proposal, but that this is not currently in the public arena and therefore could not be made available to the Applicant.
- 16.56 The Applicant was required to utilise the NH base 2018 VISSIM model, this model had recently been used by another development at Magna Park, Lutterworth. However as previously set out the HNRFI proposals only affect one of the 19 zones within the NH 2018 VISSIM Model.
- 16.57 Other developments which have paid a contribution to WCC to hold on behalf of National Highways for Gibbet Hill roundabout have used a variety of methodologies to establish a suitable contribution to Gibbet Hill roundabout.
- 16.58 As outlined in Table 3 of document reference 22.2 (REP7-076) submitted at deadline 7, the change in flows through the junction are minimal as a result of the development and there is

no traffic impact on the A426 south to / from M6 J1. The Applicant has carried out a standalone Junctions 10 ARCADY model for Gibbet Hill which has confirmed as a result of the development the impact is only at the junction itself and as such has allowed a scheme to be drawn up which mitigates the impact of the HNRFI proposals. For clarity the modelling has included all of the committed developments within PRTM and provides a scheme which works in the opening year 2026 and the forecast year 2036.

16.59 The proposed scheme has been costed by cost planners who work in the area and have undertaken recent cost planning work for East and West Midlands Highways Authorities as cost planners for highway works and are therefore up to date on costs for highways schemes in the locality. The cost plan set out two costs, the first cost was for carrying out the necessary level of works required, a second cost has been produced for an enhanced scheme which includes resurfacing and repairs to broken kerbs and the associated additional traffic management measures to undertake this work. It is the higher figure of £344,704.83 which has been entered into the Unilateral Undertaking.

16.60 It is considered that the Applicant has taken a reasonable and proportionate approach to calculating a contribution to Gibbet Hill roundabout which is CIL compliant.

Cross in Hand

16.61 At the request of WCC in February 2024 a sensitivity exercise at the Cross in Hand roundabout was carried out. The review was undertaken using RRAM and PRTM flows, as WCC had some concerns regarding the turning proportions on the Lutterworth Road and Coalpit Lane arms. WCC confirmed that they would like a sensitivity test undertaken and they agreed a methodology and the flows from this test, which were then run through the Cross in Hand junction model. Based on this, WCC confirmed that they would no longer be seeking mitigation on the arms of Coalpit Lane and the B4027, there was also a desire from WCC to not make the improvements previously outlined at the junction and make it a more attractive route for traffic.

16.62 As explained in the Applicant's Deadline 7 submissions, WCC has suggested that the Cross-in-Hand mitigation may not be required. However, this has not been agreed with LCC and NH at this stage and the works are therefore still included within the Applicant's proposed mitigation works.

16.63 The Cross in Hand roundabout works (Work No. 16) and the M69 J2 works (Work Nos. 8 and 9) have always been listed in Requirement 5(1). The Applicant has included a new paragraph (3) in Requirement 5 to address the ongoing discussions and to enable the parties to agree that alternatives may be provided, subject to such alternatives being appropriate mitigation for the HNRFI impact(s). This is explained in the Explanatory Memorandum submitted at Deadline 7 (document reference: 3.2C, REP7-013).

Sustainable Transport Strategy

16.64 The Sustainable Transport Strategy (document reference 6.2.8.1E, REP7-028) has undergone significant review and clarification in response to the comments received from BDC, HBBC, LCC and other interested parties throughout the course of the examination.

16.65 Following the original submission of the STS (document reference 6.2.8.1, APP-153), the Applicant has responded to representations throughout the examination, both directly to interested parties through the Applicant's Response to Deadline submission documents (deadline 2 through to deadline 7 submissions) and through submission of revised versions to update and refine the strategy in response to the submissions made. This has included submitting revised strategies at deadline 3 (document reference 6.2.8.1A, REP3-016), deadline 4 (document reference 6.2.8.1B, REP4-052), deadline 5 (document reference 6.2.8.1C, REP5-009), deadline 6 (document reference 6.2.8.1D, REP6-005) culminating in the final version submitted at deadline 7 (document reference: 6.2.8.1E, REP7-028).

Modal shift

16.66 HBBC queried the modal shift target for the STS. The Applicant has added the modal shift target to the commitments table at the front of the document and has explained the derivation of the target in both the STS and in Applicant's response to Deadline 6 Submissions [Part 2 – HBBC] (document reference 18.20, REP7-062). LCC queried the removal of the fund should targets not be met. The STS commits that progress towards this target will be reviewed on an annual basis and this monitoring and implementation will dictate the level of investment needed to achieve modal shift.

DRT

16.67 BDC and other parties consider that a DRT service is not appropriate for the HNRFI and should be replaced by a fixed bus service. The Applicant has committed to provision of a subsidised Many to one private DRT service to be reviewed annually, as well as public transport services provided by Travel Plan Coordinator and wider working group. Given the subsidised service, the Applicant does not agree with HBBC that DRT requires further commitments to service provision and implementation over and above those already provided in the final STS submitted at Deadline 7 (document reference: 6.2.8.1E, REP7-028). A memorandum of understanding is in place with the operator to deliver the service and service level provision is set out in the STS.

Public Transport

16.68 LCC raised concerns regarding commitments and how these are secured. The commitments table was comprehensively reviewed at deadline 7 and the Applicant is clear that free 6-month bus passes will be administered directly between the Applicant and the bus service provider and that Travel Packs for all employees will be provided by the Travel Plan coordinator.

16.69 The STS (document reference: 6.2.8.1E, REP7-029) now clearly sets out the commitments to public transport covering frequency, timings and subsidies to address concerns from interested parties.

Walking and Cycling

16.70 There has been misunderstanding from a number of interested parties in relation to HNRFI's commitment to walking and cycling. The Applicant has continued to emphasise that a more sustainable modal shift away from single occupancy motor vehicles will be achieved through measures to promote car sharing and public transport services. However walking and cycling enhancements are clearly included in the commitments table and cycling and walking provision are incorporated within all the infrastructure provided as part of HNRFI. These new links connect with the existing Hinckley walking and cycle network. The STS (document reference: 6.2.8.1E, REP7-029) document overall appropriately responds to the national guidance set out at paragraph 3.17 of the NPSNN. Reasonable endeavours have been achieved in the context of the particular location of HNRFI within a rural area outside the confines of existing settlement.

Summary

16.71 The STS (document reference: 6.2.8.1E, REP7-029) clearly addresses the majority of comments raised and sets out a comprehensive package of sustainable transport measures. The commitments contained within the strategy are secured through Requirement 9.

HGV Route Management and Strategy

16.72 Many of the matters raised by BDC, HBBC, LCC and WCC have been incorporated into the HGV Route Management and Strategy (document reference: 17.4E, REP7-055) there are still some matters in disagreement.

16.73 BDC proposes that an additional threshold of prohibited routes is added to Table 4. The use of prohibited routes above that threshold would constitute a breach of the Strategy therefore

allowing BDC to take enforcement action as a breach of Requirement 18 of the DCO (document reference: 3.1D, REP7-011).

- 16.74 BDC have requested additional ANPR cameras be agreed with the Highways Authorities. This was undertaken and additional ANPR cameras are set out in the HGV Route Management Plan and Strategy submitted at deadline 7 (document reference: 17.4E, REP7-055).
- 16.75 HBBC requested an additional ANPR camera. Additional ANPR cameras, including one on the B4669 have been identified in the HGV Route Management and Strategy submitted at Deadline 7 (document reference: 17.4E, REP7-055).
- 16.76 BDC requested the amalgamation of stages 1 and 2 of the management interventions; this would mean fines would be issued for any use of the prohibited routes. HBBC have also made representations about the trigger breaches. This would be an unfair approach to take; driver training will be employed on the first instance and evidence sought on why the route has been used (could be delivering to a local business or a signed diversion following an incident for example) closed .
- 16.77 BDC requested working to make clear that local residents could report use of prohibited routes. While details of reporting mechanisms will be widely publicised, it will be difficult for members of the public to differentiate between a HGV from HNRFI and a HGV unrelated to HNRFI, therefore the ANPR camera system will be the primary means of identifying HGVs in breach of the HGV Route Strategy and Management Plan. The Travel Plan Coordinator details will be available and signposted on the HNRFI website.
- 16.78 BDC and LCC have queried the mitigation fund of £200,000 its distribution and schemes it could deliver. Greater clarity has been provided in this fund in the HGV Route Management Plan and Strategy submitted at deadline 7 (document reference: 17.4E, REP7-055). Mitigation measures could be provided in any of the areas with prohibited routes where issues become apparent , in addition specific measures have been set out which could be provided in Sapcote.
- 16.79 HBBC raised concerns that the HGV Route Management and Strategy does not take account of Burbage, Earl Shilton and Barwell. Barwell and Earl Shilton would now be covered by an ANPR camera at The Common and Burbage would be covered by an ANPR camera at the B4669 west of M69 J2.
- 16.80 HBBC have requested that access to the A47 from the link road is made a prohibited route as well as other routes considered sensitive. The A47 is a key distributor road around Hinckley, it is identified within Leicestershire's Network Management Plan as a route suitable for HGVs. Most development HGVs are forecast to use the M69, however, there will be a small percentage that will use the A47, notably high-sided vehicles that are routing to or from the North on the A5 should the Nutts Lane carriageway lowering not occur. The applicant has aligned with Leicestershire's Network Management Plan.

17. Highway design

- 17.1 The proposed highway works predominantly fall under the jurisdiction of Leicestershire County Council (LCC) with works to add new slip roads to M69 junction 2 falling under National Highways (NH) as amendments to the Strategic Road Network (SRN). It is also noted that there is a small amount of highway works within Warwickshire County Council (WCC).
- 17.2 Throughout the DCO process, the Applicant has sought to engage with LCC and NH in relation to the preliminary design of the proposed highway works with a view to agreeing geometry, signage strategies, lighting and progressing road safety audits. Prior to the application being made, both overseeing organisations were of the opinion that engagement on these fronts would not be beneficial as the traffic modelling had not been agreed. Throughout the examination process, differing levels of progress has been made with both NH and LCC, as well as WCC and the positions with each is set out below:

National Highways

- 17.3 The proposals on the SRN required geometric departures from standards which the Applicant considered were fundamental to the deliverability of the scheme. Full applications were made to NH for the departures required, however these were accepted in principle (as opposed to in full) due to the outstanding conclusions of the traffic modelling. Regardless of this, the Applicant is confident of obtaining full approval to these departures as the concluding remarks read as follows: "The reviewer is content to provide provisional agreement at this stage. Any future full departure must contain NH agreement for the traffic modelling, to provide assurance that the model is suitable for the design proposal."
- 17.4 NH made available a technical specialist to assess the geometry of the new slip roads and to comment where possible on other highway design matters. A number of workshop meetings were held and a Geometric Design Strategy Record report was produced, commented upon by NH and amended. The latest version of this, including the comment log associated was submitted by the Applicant at Deadline 7 (document reference: 2.29.1, REP7-010). Given the progress made on this, it is the Applicant's view that the geometry of the new slip roads could be considered to be agreed with NH.
- 17.5 In addition to the geometry, the Applicant submitted strategy drawings to the relevant asset leads within NH. Approval to the strategies set out for signage, lighting and access for maintenance of existing motorway communications assets was given, with no comments being received from NH in relation to the proposed retaining wall adjacent to the National Grid transmission tower (although agreement to this was received from National Grid themselves) and no specific comments being raised in relation to the drainage strategy for the new slip roads submitted within the environmental statement (document reference: 6.3.14.7, APP-342).
- 17.6 Given the good progress made on agreement of the preliminary design, the Applicant submitted a brief to NH for completion of a Stage 1 road safety audit (RSA). The Applicant were informed by NH by email and in ISH6 that without agreement on traffic modelling, they would not be able to sign off an RSA brief. As of Deadline 8, this remains the case.
- 17.7 Due to the reluctance of NH to sign off an RSA brief, the Applicant sought to instruct an Interim Stage 1 RSA in order to ensure that any safety issues with the proposals could be identified and rectified during the Examination in accordance with GG119. This was completed in November 2023 and submitted to the ExA at Deadline 4 (document reference: 21.REP4-151) along with response reports detailing action taken (or to be taken) to address any concerns raised.
- 17.8 In addition to the above, works to the Cross in Hand roundabout will fall within the jurisdiction of National Highways, however the arms in question are the responsibility of LCC and WCC. NH have been involved in conversations and have had sight of the design relating to Cross in Hands, and would be consulted for agreement to the detailed design of these works.

Leicestershire County Council

- 17.9 The proposal on the local road network within Leicestershire involve upgrades to a number of existing junctions as mitigation works related to the development. In addition there are proposed upgrade works to M69 Junction 2 and the provision of the A47 link road between Junction 2 and the B4668, including access to the development.
- 17.10 Throughout the DCO process, LCC's position remained that reviewing the design of the highway works in detail would not be possible due to the traffic modelling not being agreed. LCC also made reference to the scale of the Highway Plans submitted being unsuitable and the Applicant noted that any areas of specific concern to LCC could be produced at a larger scale for specific review into the deliverability of these areas of the scheme.
- 17.11 During the examination, the Applicant produced a series of 1:500 scale plans showing all of the proposed highway works on topographic survey in an attempt to address any issues that LCC had with understanding particular elements of the proposed design. The Applicant also produced a Geometric Design Strategy Record to which were appended the 1:500 scale drawings and tracking drawings for each area of the scheme. The first revision of this was submitted to the Examination at Deadline 3 (document reference: 2.29, REP3-005).
- 17.12 In order to ensure that any fundamental safety concerns with the proposed scheme were addressed during the examination, the Applicant instructed an interim Stage 1 RSA in accordance with GG119. This was completed in November 2023 and submitted to the ExA at Deadline 4 (document reference: 21.1, REP4-151) along with response reports detailing action taken (or to be taken) to address any concerns raised.
- 17.13 Further to the completion of the interim Stage 1 RSA, the Applicant met with LCC at their offices on 23rd November 2023 to discuss the findings of the RSA and any other initial observations that LCC had on the GDSR and appended drawings. The Applicant took minutes and responded on 27th November with updated drawings uploaded to a Sharepoint site for review by LCC.
- 17.14 The GDSR was updated at Deadline 4 (document reference: 2.2.A, REP4-025) in response to the Interim Stage 1 RSA and incorporating recorded comments at the 23rd November meeting by LCC (these included showing maintenance laybys, signal controller locations and moving the bus interchange on the link road to the development side of the road). Although there were no significant or fundamental changes to the proposed highway works as a result of the amendments made.
- 17.15 A further meeting was held at BWB's offices in Birmingham on 12th December 2023 at which the Applicant updated LCC on the actions taken and was informed that the design had been passed to highway design colleagues for a more detailed technical review.
- 17.16 A further design focussed meeting was held on 15th February 2024 which was preceded by the issue of detailed written comments on the highway proposals by LCC. These were discussed at this meeting, including the Applicant's proposed responses and these were formally submitted to the ExA at Deadline 7 in response to LCC's Deadline 6 submission (document 18.20, REP7-061 part 3).
- 17.17 Throughout the examination process, LCC have frequently stated that they have significant road safety concerns with some of the proposals put forward. As noted above, the Applicant sought to address any fundamental concerns through an independent Interim Stage 1 RSA and is of the opinion that this did not find any significant safety concerns of the sort that LCC have consistently mentioned. On 20th February 2024, LCC signed a brief document approving the instruction of a formal Stage 1 RSA. These were completed and reported on by 5th March 2024. In the majority of cases, the auditor has noted that the action taken by the Applicant in response to their interim audit has meant that no safety issues have been identified. Where safety issues remain, in the opinion of the auditor, the Applicant has submitted a response report at Deadline 8 (document reference 21.1.1). The proposed actions to remedy the remaining safety issues identified are considered by the Applicant to be minor and of a nature that could be comfortably dealt with during the detailed design of the highway works.

17.18 LCC have raised on a number of occasions their concern that the provision of new slip roads at M69 junction 2 may impact on the structural integrity of the existing M69 overbridge that forms the southern part of the junction 2 circulatory carriageway. The Applicant has stated both in writing and at ISH6 that this will not be the case and provided record drawings of the bridge in question at Deadline 5 (REP5-005) as requested at ISH6. In the meeting on 15th February with LCC, they stated that they were still not satisfied with this and would have liked to have seen the existing structure overlaid with the proposed slip roads. As a result, the Applicant provided at Deadline 6 a drawing showing this (document reference: 2.31.1, REP6-003) which was acknowledged by LCC in their Comments on Applicant's Deadline 6 Submissions at Deadline 7 and is considered to have closed this item out. This is now an agreed matter in the SoCG submitted at Deadline 8 (document reference 19.3D)

Warwickshire County Council

17.19 WCC's only interest in highway to be amended as part of the works is the Coal Pit Lane and B4027 arms of the Cross in Hand roundabout that fall partially within their highway boundary.

17.20 At ISH6, in response to the Interim Stage 1 RSA, WCC made representations that they were not happy with the proposed action set out. The Applicant has subsequently contacted WCC and sought to discuss the issues they have and has amended the design of these arms to address their comments.

17.21 It is the Applicant's understanding that WCC are now satisfied with the geometric amendments made to the proposed works on these arms.

Summary

17.22 It is the Applicant's view that throughout the process, they have sought to work closely with the highway authorities involved to understand any concerns around the preliminary design of the highway works proposed and to work with them to address these concerns as far as possible.

17.23 The Applicant has sought at every opportunity to ensure that independent road safety audits have been carried out to ensure that fundamental safety concerns were identified and could be addressed. It has been demonstrated through the formal road safety audit reporting that the majority of concerns raised in the interim audits have been addressed and it is the Applicant's view that any remaining concerns have been responded to satisfactorily at Deadline 8 and are sufficiently minor that they can be addressed to the satisfaction of the highway authorities during the detailed design process.

17.24 The Applicant has also sought to address comments raised by the highway authorities with good progress being made with National Highways to agree not only the geometric parameters of the new slip roads, but also several other design principles to be taken forward to detailed design. While written comments on the design from LCC were not forthcoming until Deadline 6, the Applicant has responded in detail to each of these at Deadline 7 and it is the Applicant's view that these comments are minor in nature, do not affect the deliverability of the proposed highway works and can be addressed through the progression of the detailed design in due course. The Applicant is of the understanding that they have addressed the comments raised by WCC to their satisfaction in the latest GDSR report (document reference: 2.29.B, REP5-004).

17.25 In summary, it is the Applicant's position that the highway mitigation and access infrastructure works have been subject to independent road safety audits and the scrutiny of the overseeing organisations and are deliverable as they are shown on the highway plans.

18. Rail

- 18.1 Network Rail (NR) have set out their support for HNRFI through the Statement of Common Ground they have entered into with the applicant (document reference: 19.8, REP5-053). The Statement of Common Ground between the Applicant and Network Rail confirms that all matters are agreed with Network Rail.
- 18.2 NR support HNRFI and the contribution it will make to the Rail Freight Growth Target announced in December 2023 by the Great British Rail Transition Team (GBRTT).
- 18.3 HNRFI connects into the gauge cleared Strategic Freight Network (SFN) cross country route from Felixstowe to the West Midlands with connections into the West Coast Main line at Nuneaton for the North West and Scotland; and via South Birmingham for Southampton and South Wales.
- 18.4 This has important connectivity benefits for the movement of deep-sea container traffic particularly to and from Felixstowe, London Gateway and Liverpool, as well as other ports, including for the growing short-sea containerised traffic market. It will also enable it to act as a hub for smaller and emerging regional terminals.
- 18.5 NR are satisfied that the matters of signalling and telecoms can be adequately addressed by the Applicant through the necessary development agreement and Asset Protection agreement.
- 18.6 NR are satisfied that future proofing for electrification has been designed into the proposals.
- 18.7 NR have confirmed that bridge agreements pertaining to design, construction, methodology, easements and future maintenance will need to be entered into following the grant of the Order. This will be dealt with in accordance with the Protective Provisions and associated Framework Agreement, in the usual way.
- 18.8 Matters relating to level crossings have been settled and agreed with Network Rail (document reference: 19.8, REP5-053).

Maritime

- 18.9 Maritime, one of the UK's leading providers of integrated road and rail freight logistics, has agreed terms for a long-term lease with the Applicant to operate the HNRFI Rail Terminal as well as a build contract for the Applicant to construct the rail freight terminal for Maritime's use. Maritime already operate East Midlands Gateway SRFI and have signed a long-term lease to operate Northampton Gateway SRFI.
- 18.10 HNRFI is the first SRFI to have agreed occupational terms with a rail terminal operator prior to DCO consent. Legal documents are anticipated to exchange in the week beginning 18th March 2024. This demonstrates the confidence in the rail freight market and the market the site will serve.

Narborough level crossing

- 18.11 In terms of Narborough level crossing there is a history of vehicles queuing either side of the crossing while awaiting the passage of the train, which largely relates to the existing road layout and poor driver discipline.
- 18.12 Based on the October 2023 video surveyed normal working days, the ExA noted that the barrier downtimes in the worst case were recorded such that, with the paths available to HNRFI traffic assumed, the level crossing would be down from 14 ½ minutes to a maximum of 25 ½ minutes per hour between 7:00 and 20:00, with an increase in downtime of between 2 ½ and 5 minutes in any one hour if trains passed for HNRFI.

- 18.13 NR conclude that the impact of HNRFI traffic would not materially impact the pre-existing conditions and were not at a level which required an intervention. NR confirmed in its response to further written questions that there is no standard definition of maximum barrier downtime, however should barrier downtime exceed 45 minutes in any one hour it will trigger the need for site assessment by NR. Narborough level crossing is well within this limit. (Deadline 7 Submission – Responses to ExA’s Further Written Questions 07.02.24 No 2.11.6)
- 18.14 In their response to the EXAs further written questions NR confirmed the following matters, matters which were raised at ISH6:
- 18.14.1 Matters pertaining to land transfers and rights are agreed between NR and the Applicant.
 - 18.14.2 NR have confirmed that they do not consider there would be any need to seek to recess a failed freight train at HNRFI.
- 18.15 NR have advised that in terms of a passenger station opposite HNRFI, Cross Country Trains have confirmed that inclusion of an additional station call in their Birmingham to Leicester stopping services would add journey time and hence compromise the ability to platform these trains at both Birmingham New Street and Leicester. The increased journey time would also mean that additional rolling stock and traincrew would be needed to operate the service. For these reasons Cross Country Trains believes that provision of a new station is unlikely to be viable in business case terms. This is regardless of the cost of creating and managing a station in this location.

19. Compulsory acquisition and temporary possession

- 19.1 The Applicant has been clear from the outset that it has sought to minimise the extent of compulsory acquisition and this is detailed in the Statement of Reasons (document reference 4.1D, REP4-033) which also explains the Applicant's justification for the powers sought. The Applicant's land assembly strategy reflects this as is evident from the Book of Reference (document reference: 4.3E) and the Land Plans (document reference 2.20 to 2.20H). The Applicant has also explained this during the Compulsory Acquisition Hearings (see the Applicant's Post Hearing Submissions, document reference: 18.1, REP1-017 and 18.9, REP3-073).
- 19.2 The Applicant's continued engagement with affected parties was reflected through the limited number of objections to the powers, the majority of which were from statutory undertakers whose standard position is to submit holding objections until suitable protective provisions have been agreed. Most of those (with the exception of National Highways as explained below) have now been withdrawn. The Applicant understands that NGED may not have withdrawn its formal objection as at Deadline 8, however, this is purely a logistical matter due to NGED's internal arrangements for signing documents. Their requirements for removing their objection were to agree protective provisions and an asset protection agreement, both of which have been satisfied, however the asset protection agreement has not yet been signed by NGED. The Applicant understands the objection will be withdrawn as soon as this has been done. The Applicant would also highlight that the protective provisions secure the position in relation to land and compulsory acquisition matters (see paragraph 4 of Part 9 of Schedule 13) and it is for these reasons the Applicant is not treating NGED as having an outstanding objection.
- 19.3 The Applicant is pleased to confirm its understanding that the objections to temporary possession powers submitted by Shoosmiths on behalf of the landowners and interested parties for plot 101 have been withdrawn.

Outstanding Objections

- 19.4 There remain few outstanding objections to the compulsory acquisition powers. These are the landowner and development promoter with an interest in plot 122 and National Highways following their late mobilisation to ascertain the details of the nature of their interests which were only submitted at Deadline 7. The Applicant has responded to those submissions at Deadline 8 (document reference: 18.21 Part 5) which includes a proposed addition to the Protective Provisions for National Highways (Part 2 of Schedule 13) should the ExA consider it necessary and appropriate. This wording is also set out in paragraph 20.5 below where the Applicant highlights changes the Applicant suggests are included in the ExA's recommended version of the dDCO to the Secretary of State.
- 19.5 NH's late submissions in respect of their interests reflect the nature of NH's engagement on land matters throughout the history of this scheme. The Applicant has been left with no alternative but to seek the powers it needs to deliver and maintain the authorised development. Nevertheless, the Applicant's continued offer to agree voluntary arrangements reflects the Applicant's consistently 'open door' attempts to engage with NH.
- 19.6 The Applicant would reiterate that the powers do not relate to the SRN. Rather, they relate to adjoining land which NH asserts, without providing evidence, are either receiving SRN drainage or are required for access and maintenance to such land which receives the drainage.
- 19.7 With regard to plot 122, the Applicant continues its extensive efforts to negotiate with the parties. The Applicant's position on the requirement for this land, including the deliberate shape of the plot to avoid removing hedgerows and vegetation is set out in the Applicant's Responses to various deadline submissions (document reference: 18.13 Part 5, REP4-124, document reference: 18.17: Part 9, REP5-048 and document reference: 18.19 Part 9, REP6-026) as well as the Applicant's post CAH oral submissions Applicant's Post Hearing Submissions (document reference: 18.1, REP1-017 and 18.9, REP3-073).
- 19.8 As the Applicant has reported throughout the Examination, it has made numerous attempts to agree a mutual arrangement with the parties for plot 122 and on several occasions, has been

led to believe that terms were agreed, only for them to be revised at the last minute. Negotiations have been aligned to those in respect of plot 101 (with the main promoter being interested in both plots), and a voluntary arrangement has been agreed on plot 101 (as is reflected by the withdrawal of objection relating to that plot). However, this has not been possible in respect of plot 122. Terms have been agreed with the promoter for plot 122, but the remaining issue remains one of value, which is disproportionate to the Applicant's other voluntary agreements and which the Applicant cannot accept. Valuation is not a matter for the Examination. The principle of the use of the land is agreed, it is simply the commercial arrangement that prevents a voluntary agreement being concluded. In the absence of such agreement it is necessary to retain the temporary possession powers, and the affected parties will be entitled to compensation under the DCO.

- 19.9 The Applicant has diligently endeavoured to engage with the landowners of plot 36 throughout the Examination process, aiming to come to voluntary agreement for the acquisition of the plot. Despite these efforts, minimal engagement has been forthcoming from the landowners. Plot 36 has been expressly incorporated within the Order limits for the purpose of undertaking and maintaining soft landscaping works on the northern side of the existing railway line.
- 19.10 Following an extensive period of no communication from the landowner, a counter offer was received, presenting terms that are deemed disproportionate in comparison to the Applicant's other voluntary agreements. Given the absence of a mutually agreeable resolution, it is necessary to retain compulsory acquisition powers.
- 19.11 Discussions with the landowners of plots 57, 57a, 60, 64 and 67 have progressed positively. Heads of Terms are agreed with the and solicitors are to be instructed to complete the respective voluntary agreements. Whilst the Applicant is hopeful a voluntary agreement will be reached, in the absence of an executed agreement, it is necessary to retain the compulsory and temporary possession powers. These plots are required to deliver the proposed public right of way diversion following the closure of the Thorney Fields level crossing.
- 19.12 The Funding Statement (document reference: 4.2) explains how the development and the acquisition of land and rights over land necessary to build the development would be funded. It demonstrates that the Applicant has access to ample funds available to fund all aspects of the development.

20. Draft Development Consent Order

- 20.1 The Applicant's approach to the drafting of the DCO was largely based on the already consented SRFI DCOs, along with other recently made DCO, which is explained in detail in the Explanatory Memorandum (document reference: 3.2C, REP7-013). The Applicant considers that the draft DCO is appropriate and contains the necessary powers and provisions, together with the mechanisms for approval of details and the protection of third parties, in order to deliver, operate and maintain the authorised development.
- 20.2 The Applicant submitted four revisions to the dDCO throughout the Examination to correct some errors, refine the drafting, and address comments received from the ExA and requests from third parties. These were:
- 20.2.1 11 September 2023 (document reference: 3.1A, AS-008) to refine Schedule 1 and remove the original requirement 5(3) which provided that the Applicant would not be required to undertake some of the works at the Cross In Hands roundabout (Work no. 16) if those works were already commenced by Gazeley UK Ltd as part of their highway works for the Magna Park development. The Applicant had been made aware that those works were no longer required to be carried out by Gazeley;
 - 20.2.2 Deadline 2 (document reference 3.1B, REP2-010) to address the ExA's initial comments on the draft DCO appended to the Rule 6 Letter (PD-005) and the Applicant's responses to those comments and following discussions during ISH1 (as noted in the Applicant's Post Hearing Submissions – Appendix C - Updated Responses to the ExA's Initial Comments on Drafting of the dDCO document reference 18.1.3, REP1-020), to remove the Crown Land provisions following confirmation from the relevant bodies that there was no Crown Land in the Order limits and to reflect discussions with third parties including the local authorities and those with the benefit of protective provisions;
 - 20.2.3 Deadline 4 (document reference 3.1C, REP4-027) to reflect discussions with third parties including the local authorities and those with the benefit of protective provisions including the insertion of a new requirement relating to the lorry park, to make clarificatory drafting amendments and to address discussions at ISH5 as noted in the Applicant's Written Summary of its Oral Case (document reference: 18.12, REP3-077); and
 - 20.2.4 Deadline 7 as explained below in more detail.
- 20.3 The Applicant's final draft DCO was submitted at Deadline 7 (document reference 3.1D) in accordance with the Examination Timetable and was accompanied with an updated Explanatory Memorandum (document reference 3.2C) which explained the amendments that had been made to that final DCO since the previous version at Deadline 4 and included justification and, where relevant, precedent for the Applicant's drafting. Those amendments at Deadline 7 included:
- 20.3.1 the Applicant's revisions in response to the ExA's commentary on the DCO (PD-014), in line with the Applicant's responses to that commentary at Deadline 6 (document reference 3.5, REP6-004);
 - 20.3.2 several amendments to refine, clarify and correct the drafting, to reflect a final footnote review and to update the list of documents and plans to be certified (Schedule 15);
 - 20.3.3 amendments to reflect the connection of the new bridleway from the A47 link road to Burbage Common Road as explained in the Applicant's Deadline 6 submission covering letter, and subsequently the relevant updated documentation submitted at Deadline 7;
 - 20.3.4 to reflect the Applicant's responses to ExQ2 (document series reference 18.16, REP5-036 – REP5-039);
 - 20.3.5 to reflect the Applicant's responses to Deadline 5 and 6 submissions (document series references 18.17, REP5-040 – REP5-050) and 18.19, REP6-018 – REP6-027);

20.3.6 and updates to the Protective Provisions in Part 13 to reflect agreements reached with Network Rail, Cadent, NGET and NGED and the Applicant’s final position on those provisions which have not been possible to agree with NH and LCC. Further detail on the protective provisions included in the Applicant’s final DCO are set out in paragraphs 20.25-20.30 below.

20.4 All amendments made to the dDCO since the Application submission are explained in the Schedule of Changes Made to the dDCO, the latest version of which was submitted at Deadline 7 (document reference: 3.4C, REP7-015).

20.5 Since the submission of the Applicant’s final dDCO (document reference: 3.1D, REP7-011), there are some further amendments required which the Applicant explains together with the reason for their requirement in the table below. The Applicant has not submitted a revised draft DCO to reflect these changes since it is aware that the Examination Timetable does not anticipate one and third parties would not be expecting one. The Applicant would be grateful if the ExA could include these amendments in its version of the dDCO to be submitted to the Secretary of State. The amendments are:

REQUIRED AMENDMENTS TO THE FINAL DRAFT DCO

| Provision | Amendment | Reason for the Amendment |
|---------------------------------------|---|---|
| Part 1 of Schedule 2 Paragraph 28 | <p>Combined heat and power</p> <p>28. The combined heat and power plant may not be operated for more than 30% of the hours in a calendar year. For the lifetime of the authorised development the undertaker must maintain an up-to-date annual usage report covering for a period of at least 12 months and shall make the information available to the relevant planning authority within 14 days of it being requested by the relevant local planning authority.</p> | Late requested amendment from BDC to which the Applicant agrees |
| Part 2 of Schedule 13 Paragraph 20 | <p>Insert new sub-paragraphs (5) and (6) to paragraph 20 as follows:</p> <p>Land</p> <p>— (1) Following the issue of the final certificate pursuant to paragraph 14(4) National Highways may serve notice on the undertaker that it wishes to take a freehold transfer of land within the extent of strategic road network boundary which is not in the ownership of National Highways but has been acquired by the undertaker for the purposes of carrying out the specified works.</p> <p>(2) If the undertaker receives a notice under sub-paragraph (1) then the undertaker must effect a freehold transfer of the land which is the subject of the notice and complete such transfer as soon as reasonably practicable at no cost to National Highways.</p> <p>(3) Where any land or interest is proposed to be acquired by the undertaker for the benefit of National Highways authorised by the Order, the undertaker must, unless otherwise agreed by National Highways,</p> | As per the Applicant’s Responses to NH’s Deadline 7 Submissions (document reference 18.21 Part 5) |

| Provision | Amendment | | | Reason for the Amendment |
|-------------|---|-------|---|---|
| | <p>exercise article 25 (compulsory acquisition of land) and article 27 (compulsory acquisition of rights) as applied by articles 32 (application and modification of the 1981 Act) and article 33 (modification of Part 1 of the 1965 Act) of this Order to directly vest in National Highways any such land or interest.</p> <p>(4) The undertaker agrees not to exercise powers of compulsory acquisition in respect of National Highways' interests only in land parcels 84, 101, 101a, 102, 103 and 104 identified on the land plans.</p> <p>(5) The undertaker must ensure that any land to which the strategic road network drains and which the undertaker has acquired either by agreement or through the exercise of compulsory acquisition or temporary possession continues to receive such highway drainage at all times and must grant to National Highways such rights of access as are reasonably necessary for maintenance of that highway drainage.</p> <p>(6) National Highways and the undertaker hereby agree to cooperate in the execution of any transfer or deed of grant, licence or easement as may be necessary provided always that the undertaker is not prevented from exercising any powers under Part 5 of this Order, subject to sub-paragraph (5) above.</p> | | | |
| Schedule 15 | Book of reference | 4.3DE | 27 February 2024 Revision 13 8 March 2024 Revision 14 | To reflect the updated Book of Reference submitted at Deadline 8 as explained in the Applicant's covering letters submitted at Deadlines 7 and 8. |

DCO Provisions Not Agreed (excluding protective provisions)

Blaby District Council

20.6 The Applicant was first made aware of BDC's comments on the drafting of the DCO articles at ISH5 and requested that those comments be provided for the Applicant's detailed review and response. The Applicant received those comments at Deadline 3. A series of exchanges followed between the Applicant and BDC including at the subsequent Examination Deadlines (the Applicant's position is set out in document references 18.13 REP4-120, 18.17 REP5-040, 18.19 REP6-018 and 18.20) and the Applicant has accepted some of BDC's requests, mostly but not exclusively in respect of the Requirements. The Applicant's final position on BDC's comments is set out in its responses to BDC's Deadline 7 submissions (document reference: 18.21 Part 1).

20.7 The Statement of Common Ground with BDC submitted at Deadline 8 (document reference 19.1D) confirms that all Requirements are agreed save for Requirements 10 and 19. The Applicant has since agreed to a further revision to Requirement 28 which is set out in the table above at paragraph 20.5. BDC also requested the following further amendment to Requirement 19(2):

- (2) The content of any detailed landscape and ecological management plan will—
 - (a) identify features of ecological importance;
 - (b) provide a management framework for the conservation and enhancement of habitats and other features of ecological interest; and
 - (c) provide a work schedule (including an annual work plan) **and associated remedial measures.**

20.8 The Applicant does not agree to this amendment because, it is not necessary to add this to the requirement as it is built into the management plan.

Hinckley and Bosworth Borough Council

20.9 HBBC has only commented on the Requirements. The Statement of Common Ground with HBBC submitted at Deadline 8 (document reference 19.6D) confirms that all Requirements are agreed save for Requirement 10. The Applicant's position on Requirement 10 is set out in its responses to BDC's Deadline 7 submissions (document reference: 18.21 Part 1).

Leicestershire County Council

20.10 LCC has provided limited commentary on the drafting of the DCO but has outlined some provisions with which it does not agree. LCC does not agree with the approach to the drafting of the triggers in Requirement 5, but it has not provided any proposed alternative drafting. The Applicant has responded to LCC to explain its position on the drafting at various deadlines and note that the approach follows the Northampton Gateway requirement triggers. The Requirement ensures that the off-site highway works are delivered prior to the opening to traffic of the M69 slip roads. The slip roads must be delivered before any warehouse occupation. The new Requirement 5(3) included in the final dDCO at Deadline 7 is explained in the Explanatory Memorandum (document reference 3.2C, REP7-013) and the Applicant understands that the highway authorities do not object to this paragraph.

20.11 The Applicant's position on Requirement 10 is set out in its responses to BDC's Deadline 7 submissions (document reference: 18.21 Part 1) and specifically in relation to LCC's request in relation to an obligation on occupiers to use the rail terminal, in the Applicant's Responses to LCC's Written Representations (document reference: 18.3, REP2-064).

20.12 The Applicant is aware that there was a difference of opinion between LCC and BDC on Requirement 12 relating to archaeology and the Applicant has included BDC's required wording.

20.13 The Applicant has responded to a number of LCC's 'objections' to what they consider to be gaps in the planning obligations (see section 21 below) to explain that the mechanisms for the approval of details which LCC would prefer to be in the s106 agreement is sufficiently addressed and secured through DCO requirements (for example, in relation to sustainable transport, HGV routeing and construction traffic). LCC's simple preference is for the Applicant to comply with LCC's "standard" approach which is not appropriate here.

20.14 The Applicant's position on protective provisions with LCC is set out in the table at paragraph 20.26 below.

20.15 With regard to the bridge structure forming part of the A47 Link Road over the Leicester to Hinckley railway line to be provided as part of Work No. 7 ("the Bridge"), the Applicant is aware

that LCC is seeking not to take adoption of the Bridge. As per the Applicant's submissions at Deadline 7 (Applicant's response to Deadline 6 Submissions (part 3 - LCC) document reference 18.20), the Applicant considers LCC's position regarding adoption to be fundamentally unacceptable for a Local Highway Authority. The Bridge will carry highway forming part of the adopted A47 and, as such, the Applicant would expect that LCC would adopt a bridge carrying the adopted highway.

- 20.16 The DCO ensures that LCC will adopt the Bridge with a commuted sum to be paid towards ongoing maintenance, please see paragraphs (4) and (5) (provisional and final certification) and paragraph 20 (commuted sums) in Part 3 of Schedule 13 of the DCO.
- 20.17 As set out in the Applicant's Deadline 5 submissions (document reference: 18.16.2 REP5-038), it is intended that a Tri-Partite Agreement will be entered into between Network Rail, LCC and the Applicant in respect of the Bridge, which will grant all relevant access and maintenance rights to LCC. This has been the case for other DCOs such as Northampton Gateway.
- 20.18 The position taken by the Applicant in respect of the adoption of the Bridge by LCC, as Local Highway Authority, is not unusual and is a common arrangement through the UK. The Applicant is aware that as part of works currently being undertaken by LCC to construct the North and East Melton Mowbray Distributor Road, LCC are adopting a vehicular bridge over a railway line.
- 20.19 The Applicant would also highlight the recently completed Roade Bypass constructed as part of the Northampton Gateway Rail Freight Interchange scheme as well as recent schemes in Staffordshire, Cambridgeshire, Leicester City, Derbyshire, Wigan and elsewhere that the Applicant and its advisors have had direct involvement with, where the Local Highway Authority have adopted bridge structures over Network Rail and other infrastructure where these structures carry adopted highway.
- 20.20 Notwithstanding the Applicant's position in respect of the adoption of the Bridge by LCC, the Applicant is aware that LCC is making submissions relating to adoption of the Bridge and, should the ExA not be satisfied that LCC should adopt the Bridge, Network Rail have confirmed that it would be willing to adopt the bridge structure. Network Rail's confirmed position is set out in the Addendum to the Statement of Common Ground between the Applicant and Network Rail, submitted at Deadline 8, document reference 19.8.1.
- 20.21 For clarity, in the event that Network Rail were to adopt the Bridge structure, LCC would still be required to adopt the highway over the Bridge forming part of the A47 and all necessary highway related apparatus.
- 20.22 Should the ExA be minded to agree with LCC that LCC should not be required to adopt the Bridge structure, the Applicant has included at Appendix B suggested amendments (in tracked changes) to the Protective Provisions for the benefit of LCC (Part 3 of Schedule 13) that would be required to remove the provisions which would currently require LCC to adopt the Bridge.
- 20.23 In the event that the amendments suggested above are made to the Protective Provisions for the benefit of LCC (Part 3 of Schedule 13), the Applicant considers (and Network Rail agrees) that the suggested amendments included at Appendix B would also need to be made to the Protective Provisions for the benefit of Network Rail (Part 1 of Schedule 13), to secure that the bridge structure is transferred to and maintained by Network Rail from the date the bridge is completed.

Other parties

- 20.24 The Applicant is not aware of any remaining outstanding comments from third parties on the dDCO. It has accommodated requests of the Environment Agency and Natural England in respect of the Requirements. This is reflected in the Statements of Common Ground (document references 19.9, REP2-085 and 19.10, REP2-086).

Protective Provisions

- 20.25 The Applicant has periodically submitted updates to the Examining Authority during the Examination in respect of negotiations and the status of the protective provisions with all relevant stakeholders. The Applicant refers the Examining Authority to the 'Applicant's

Response to ExA's Further Written Questions (Appendix B – Protective Provisions position table)' submitted at Deadline 5 (document reference: 18.16.2; REP5-038) and the Explanatory Memorandum submitted at Deadline 7 (document reference: 3.2C, REP7-013).

20.26 The table below summarises the status of the protective provisions with the relevant parties (listed in column 1).

| Protective provisions for the benefit of | Status of Protective Provisions |
|---|---|
| Network Rail Infrastructure Limited | <p>The Applicant and Network Rail Infrastructure Limited have agreed protective provisions which are included in the DCO submitted at Deadline 7 (document reference: 3.1D, REP7-011).</p> <p>Network Rail Infrastructure Limited withdrew its objection at Deadline 7.</p> |
| National Highways | <p>The Applicant has been engaging with and has attempted to negotiate suitable protective provisions with National Highways (NH) during the Examination period.</p> <p>The points outstanding relate to:</p> <ul style="list-style-type: none"> • deemed approvals in the event that NH fails to respond to a request for approval within 42 days. The Applicant's position is that deemed approval is critical to providing certainty in terms of delivery of the project. Any delays will have significant impacts on the delivery programme. The Applicant considers the drafting to allow NH sufficient and reasonable time to respond and approve relevant details; • drafting included by NH that has the effect of wholly disapplying a number of powers that have been included in the DCO unless NH's prior consent is obtained. • general disagreement in the drafting of certain provisions, including 'reasonable' and 'proper' drafting in terms of the discretion of the parties in respect of certain obligations and approvals or where costs are payable under the protective provisions. <p>In respect of the outstanding points of disagreement, the Applicant's position remains as set out in the document titled '<i>Applicant's Response to ExA's Further Written Questions: Appendix B – Protective Provisions Table</i>' submitted at Deadline 5 (document reference: 18.16.2; REP5-038).</p> <p>Since the reported position at Deadline 5 however, the Applicant, NH, LCC and WCC have agreed to include additional drafting and provisions in the respective protective provisions which secure that the highway authorities may agree between themselves that one of the highway authorities may assume responsibility for approval of Work No. 16.</p> |

| Protective provisions for the benefit of | Status of Protective Provisions |
|--|---|
| | <p>The Applicant's final version of the NH protective provisions is in its final dDCO submitted at Deadline 7 (document reference: 3.1D, REP7-011).</p> <p>Notwithstanding the above, please see the Applicant's further comments and suggestion to the Examining Authority at paragraphs 18.27- 18.30 below in respect of the NH Protective Provisions.</p> |
| <p>Leicestershire County Council as local highway authority</p> | <p>The Applicant has been engaging with and has attempted to negotiate suitable protective provisions with Leicestershire County Council (LCC) during the Examination period.</p> <p>The ExA will recall that LCC requested the Applicant to consider changing its originally proposed protective provisions to LCC's standard s278 provision one week before the Examination commenced. The Applicant confirmed it would do so and following further discussions, at the request of LCC, the Applicant has considered (i) the protective provisions included in The East Midlands Gateway Rail Freight Interchange and Highway Order 2016/17 and (ii) LCC's standard form Section 278 Agreement. The provisions in the DCO are now based on those included in the EMG DCO.</p> <p>The Applicant has conceded on a significant number of drafting points at LCC's request, and in an attempt to agree protective provisions, but it has not been possible to finalise protective provisions with LCC during the Examination period.</p> <p>The majority of the protective provisions included in the DCO have been agreed between LCC and the Applicant but, the following points remain outstanding:</p> <ul style="list-style-type: none"> • phasing of the highway works; • deemed approvals in the event that LCC fails to respond to a request for approval within 42 days; • drafting relating to the defined term 'works fees' • drafting relating to commuted sums payable in respect of the surfacing of public rights of way in the Order limits, including the surfacing of new footbridge at the Outwoods railway crossing; • provisions securing the adoption and ongoing maintenance of the bridge to form part of the A47, over Network Rail infrastructure. The Applicant's position in respect of the Bridge adoption is explained at paragraphs 20.15 to 20.23 above; • general disagreements in the drafting of certain provisions. <p>The Applicant has set out its position in respect of the outstanding points in the protective provisions' with LCC in the document titled '<i>Applicant's Response to ExA's Further Written Questions: Appendix B – Protective Provisions Table</i>' submitted at Deadline 5 (document reference: 18.16.2; REP5-038).</p> |

| Protective provisions for the benefit of | Status of Protective Provisions |
|--|--|
| | <p>Since the reported position at Deadline 5 however, the Applicant, LCC, NH and WCC have agreed to include additional drafting and provisions in the respective protective provisions which secure that the highway authorities may agree between themselves that one of the highway authorities may assume responsibility for approval of Work No. 16.</p> <p>The Applicant's final version of the LCC protective provisions is in its final dDCO submitted at Deadline 7 (document reference 3.1D).</p> |
| <p>Warwickshire County Council as local highway authority</p> | <p>The Applicant has engaged in discussions and negotiations with WCC in respect of suitable protective provisions. The protective provisions have been included in the DCO (document reference: 3.1D, REP7-011) and are based on WCC's standard form section 278 agreement with amendments, the majority of which have been agreed between the Applicant and WCC.</p> <p>The only point outstanding relates to:</p> <ul style="list-style-type: none"> deemed approvals in the event that WCC fails to respond to a request for approval within 42 days. The Applicant's position is that deemed approval is critical to providing certainty in terms of delivery of the project. Any delays will have significant impacts on the delivery programme. The Applicant considers the drafting to allow WCC sufficient and reasonable time to respond and approve relevant details. <p>In respect of the outstanding points of disagreement, the Applicant's position remains as set out in the document titled '<i>Applicant's Response to ExA's Further Written Questions: Appendix B – Protective Provisions Table</i>' submitted at Deadline 5 (document reference: 18.16.2, REP5-038).</p> <p>Since the reported position at Deadline 5 however, the Applicant, WCC, NH and LCC have agreed to include additional drafting and provisions in the respective protective provisions which secure that the highway authorities may agree between themselves that one of the highway authorities may assume responsibility for approval of Work No. 16.</p> <p>The Applicant's final version of the WCC protective provisions is in its final dDCO submitted at Deadline 7 (document reference 3.1D).</p> |
| <p>Severn Trent Limited Water Limited</p> | <p>The Applicant has agreed protective provisions with Severn Trent and the agreed position is reflected in the dDCO. (confirmation from Severn Trent is attached to the Deadline 8 Submission Covering Letter).</p> |
| <p>Cadent Gas Limited</p> | <p>The Applicant has agreed protective provisions with Cadent Gas Limited which are included in the DCO submitted at Deadline 7</p> |

| Protective provisions for the benefit of | Status of Protective Provisions |
|---|--|
| | (document reference: 3.1D, REP7-011). The Applicant understands Cadent Gas has withdrawn its objection to the Project at Deadline 8. |
| National Grid Electricity Distribution (East Midlands) Plc | The Applicant agreed protective provisions with National Grid Electricity Distribution (East Midlands) Plc which are included in the DCO submitted at Deadline 7 (document reference: 3.1D, REP7-011). The Applicant had agreed and signed an Asset Protection Agreement by Deadline 7 and is awaiting confirmation that National Grid Electricity Distribution (East Midlands) Plc has signed their part and is ready to complete. It is NGED's internal logistical processes which the Applicant is now waiting for to complete the agreement. These were the two matters required for NGED to withdraw its objection and as far as the Applicant is concerned there is no reason this cannot now be done. It is understood that National Grid Electricity Distribution (East Midlands) Plc will withdraw their objection to the Project once this has been completed. |
| National Grid Electricity Transmission PLC | The Applicant agreed protective provisions with National Grid Electricity Transmission PLC which are included in the DCO submitted at Deadline 7 (document reference: 3.1D, REP7-011). National Grid Electricity Transmission PLC withdrew their objection to the Project at Deadline 7. |

20.27 In respect of the protective provisions in Part 2 of Schedule 13 of the dDCO (document reference 3.1D) benefitting NH, since submitting the dDCO the Applicant has further considered the compulsory acquisition position in respect of NH owned / controlled land following NH's Deadline 6 submissions.

20.28 The Applicant's position in respect of the NH protective provisions and, in particular the use of compulsory acquisition powers over NH owned land (excluding the strategic road network), remains as set out in the document titled 'Applicant's Response to ExA's Further Written Questions: Appendix B – Protective Provisions Table' submitted at Deadline 5 (document reference 18.16.2, REP5-038).

20.29 However, notwithstanding the Applicant's position, the Applicant recognises that there may be instances where it would be of the benefit of both National Highways and the undertaker to enter into voluntary arrangements in respect of transfers of land or the grant of certain rights etc.

20.30 To secure such provisions, if the Examining Authority is minded to do so, the Applicant has suggested new sub-paragraphs (5) and (6) that could be added to paragraph 20 of Part 2 of Schedule 13 in the table at paragraph 20.5 above.

21. Section 106 Planning Obligations

- 21.1 This section provides a summary of the final position relating to the section 106 planning obligations submitted by the Applicant in respect of the Examination.
- 21.2 The Applicant has submitted:
- 21.2.1 an agreement entered into pursuant to section 106 of the Town and Country Planning Act 1990 with Blaby District Council (BDC) and Hinckley and Bosworth Borough Council (HBBC) (the S106 Agreement) (document reference 9.1D); and
 - 21.2.2 a unilateral undertaking made pursuant to section 106 of the Town and Country Planning Act 1990 given to Leicestershire County Council (LCC) (the S106 Unilateral Undertaking) (document reference: 9.2B).

S106 Agreement

- 21.3 Agreement was reached with BDC and HBBC by Deadline 7 in respect of the planning obligations to be secured in the S106 Agreement. The Applicant refers the ExA to the final version S106 Agreement submitted by the Applicant at Deadline 7 (document reference: 9.1C).
- 21.4 The agreed S106 Agreement has been fully executed by all landowning parties (and relevant mortgagee), the Applicant, BDC and HBBC and has been formally completed and is dated 8 March 2024. The completed S106 Agreement has been submitted to the Examination at Deadline 8 (document reference: 9.1D).
- 21.5 The Applicant has periodically submitted updates to the ExA during the Examination in respect of the drafting and negotiation of the S106 Agreement. This includes the 'Applicant's Response to ExA's Further Written Questions (Appendix A - S106 Table)' (document reference: 18.16.1; REP5-037) and the Applicant's 'S106 Update Rule 17 Letter' document (documents reference: 9.3, REP7-050).
- 21.6 In summary, the S106 Agreement secures the following planning obligations. The capitalised terms below should be construed as defined in the S106 Agreement.

| Planning Obligation | Trigger |
|---|---|
| Schedule 1 – Blaby District Council obligations | |
| HGV Routeing Monitoring Fee - £1,440 payable per HGV Routeing Monitoring Meeting towards BDC's costs associated with attending HGV Routeing Monitoring Meetings | per HGV Routeing Monitoring Meeting by no later than 1 (one) month prior to the date of the relevant HGV Routeing Monitoring Meeting. |
| Section 106 Monitoring Fee - £250 or 2% of the value of the developer contributions payable to the District Council, whichever is greater | payable prior to Commencement of Development |
| Works and Skills Plan | to implement and comply with the Works and Skills Plan in accordance with the timeframes set out in the plan |
| Works and Skills Plan Monitoring Fee - £1,440 payable per Work and Skills Plan Monitoring Meeting | payable per Works and Skills and Training Plan Monitoring Meeting by no later than 1 (one) |

| | |
|---|---|
| | month prior to the date of the relevant Works and Skills Plan Monitoring Meeting |
| Schedule 2 – Hinckley and Bosworth Borough Council obligations | |
| Bike Shelter Contribution - £10,000 towards the cost associated with provision of and/or improvements to cycle storage facilities within Burbage Common | payable prior to first Occupation |
| Bridleway Contribution - £70,400 towards the costs of and associated with the resurfacing of bridleway U51 within Burbage Common and identified coloured blue on the Footpath Plan | payable prior to first Occupation |
| Car Park Contribution - £75,000 towards the costs associated with resurfacing of the main car parks within Burbage Common and Smithy Lane | payable prior to first Occupation |
| Directional Signage Contribution - £15,000 towards costs associated with the provision of new directional signage relating to Burbage Common | payable prior to first Occupation |
| Footpath Improvements Contribution - £75,000 towards costs associated with the resurfacing of up to 1500 metres of footpaths within Burbage Common | payable prior to first Occupation |
| HGV Routeing Monitoring Fee - £1,440 payable per HGV Routeing Monitoring Meeting towards BDC's costs associated with attending HGV Routeing Monitoring Meetings | per HGV Routeing Monitoring Meeting by no later than 1 (one) month prior to the date of the relevant HGV Routeing Monitoring Meeting. |
| New Permissive Route Contribution - £25,000 towards costs associated with the provision of a new permissive route between the bridleway to be provided on the Development and Burbage Common Underbridge as identified hatched black on the New Permissive Route Plan | payable prior to first Occupation |
| Section 106 Monitoring Fee (Borough Council) - £2,512 payable towards HBBC's costs associated with the monitoring and enforcement of this Agreement | payable prior to Commencement of Development |
| Works and Skills Plan Monitoring Fee - £1,440 payable per Work and Skills Plan Monitoring Meeting | payable per Works and Skills and Training Plan Monitoring Meeting by no later than 1 (one) month prior to the date of the relevant Works and Skills Plan Monitoring Meeting |

| | |
|---|-----------------------------------|
| Visitor Centre Contribution - £90,000 (ninety thousand pounds) towards the costs associated with the refurbishment or replacement of the visitor centre within Burbage Common | payable prior to first Occupation |
|---|-----------------------------------|

21.7 Since the final version S106 Agreement was submitted at Deadline 7 (document reference: 9.1C), the parties (including BDC and HBBC) have agreed minor amendments to the S106 Agreement to correct typographical errors / minor drafting inconsistencies. The amendments were made in manuscript ahead of completion of the S106 Agreement.

S106 Unilateral Undertaking

21.8 The Applicant refers the ExA to the final version of the S106 Unilateral Undertaking submitted by the Applicant at Deadline 7 (document reference: 9.2A).

21.9 The Unilateral Undertaking has been fully executed by all landowning parties (and relevant mortgagee) and the Applicant and has been formally completed and is dated 8 March 2024. The completed Unilateral Undertaking has been submitted to the Examination at Deadline 8 (document reference: 9.2B).

21.10 The Applicant has periodically submitted updates to the ExA during the Examination in respect of the drafting and negotiation of the S106 Unilateral Undertaking. This includes the 'Applicant's Response to ExA's Further Written Questions (Appendix A - S106 Table)' (document reference: 18.16.1; REP5-037) and the Applicant's 'S106 Update Rule 17 Letter' document (document reference: 9.3, REP7-050).

21.11 As confirmed by the Applicant in the document titled 'Applicant's responses to ExA's Further Written Questions (Appendix A - S106 table)' submitted at Deadline 5 (document reference: 18.16.1; REP5-037), following the submission of the revised Planning Obligation, the Applicant received correspondence from LCC which included a list of planning obligations that LCC requested be included in the draft Planning Obligation.

21.12 The Applicant does not agree that all planning obligations requested by LCC are necessary or justified. The Applicant and LCC have therefore not been able to agree on the planning obligations to be included in the Planning Obligation for the benefit of LCC and, on that basis, the S106 Unilateral Undertaking has been prepared and submitted as part of the Examination. The Applicant also further explains the need to convert the bi-lateral agreement to unilateral undertaking in its responses to LCC's Deadline 7 submissions (document reference 18.21 Part 3).

21.13 In summary, the S106 Unilateral Undertaking secures the following planning obligations. The capitalised terms below should be construed as defined in the S106 Unilateral Undertaking.

| Planning Obligation | Trigger |
|--|---|
| Archaeology Monitoring Fee - £7,315 as a contribution towards LCC's costs associated with monitoring compliance with the Archaeology Works | payable prior to carrying out the Archaeology Works |
| Gibbet Hill Contribution - £344,967.07 to be paid to WCC, as a proportionate contribution towards the Gibbet Hill Contribution Purpose | not to Commence Development unless and until written evidence has been provided to LCC that the Gibbet Hill Contribution has been paid to Warwickshire County Council or National Highways in full |

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|--|---|
| <p>HGV Enforcement Fund – a fund of £200,000 to be managed by the Owners to be used towards additional measures considered by the members of the HGV Routeing Monitoring Meetings to be necessary to further discourage HGVs routing via any of the prohibited routes and/or other measures such as strategic signage / Traffic Regulation Orders on any other routes, such fund to be increased on an annual basis in the event that fines are collected from occupiers of the Development for breach of the HGV Route Management Plan and Strategy</p> | |
| <p>HGV Routeing Monitoring Fee - £1,440 payable per HGV Routeing Monitoring Meeting towards BDC's costs associated with attending HGV Routeing Monitoring Meetings</p> | <p>per HGV Routeing Monitoring Meeting by no later than 1 (one) month prior to the date of the relevant HGV Routeing Monitoring Meeting.</p> |
| <p>Monitoring Fee - £300 or 0.5% of the Contributions (whichever is the greater))</p> | <p>payable prior to first Occupation of the Development</p> |
| <p>Occupier Travel Plan Monitoring Fee - £6,000 per Occupier Travel Plan as a contribution towards the County Council's costs associated with monitoring compliance with the Occupier Travel Plan</p> | <p>payable prior to first Occupation of the relevant Unit</p> |
| <p>Works and Skills Plan Monitoring Fee - £1,440 payable per Work and Skills Plan Monitoring Meeting</p> | <p>payable per meeting and within 30 days of a written request from LCC</p> |
| <p>Traffic Regulation Order Contribution (£8,756 in respect of traffic restrictions (on a maximum of 3 (three) roads) or £9,392 (in respect of speed limit changes)</p> | <p>payable in the event that the Owner requires the making of a Traffic Regulation Order in connection with the Development within 30 days of a request from the County Council</p> |

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|---|---|
| Travel Pack and Travel Pack Administration Fee (£500) | No later than 2 (two) months prior to the first Occupation of the Development: <ul style="list-style-type: none"> to submit a sample Travel Pack to the County Council together with the Travel Pack Administration Fee for approval in writing; and not to Occupy the Development until such approval has been given (such approval not to be unreasonably withheld or delayed). |
| Travel Plan Co-ordinator | To appoint a Travel Plan Co-ordinator no later than three (3) months prior to first Occupation of the Development and to ensure that the Travel Plan Co-ordinator remains in place for the lifetime of the Development |
| Travel Plan Monitoring Fee - £11,337.50 as a contribution towards the County Council's costs associated with monitoring compliance with the Framework Travel Plan | payable prior to first Occupation of the Development |

21.14 In the Applicant's 'S106 Update Rule 17 Letter' document (document reference: 9.3, REP7-050) the Applicant sets out its reasoning and justification for:

- 21.14.1 including the Gibbet Hill obligations in the S106 Unilateral Undertaking (document reference: 9.2B); and
- 21.14.2 not agreeing to certain obligations requested by LCC for including in the S106 planning obligation, including where certain requests are already covered by requirement.

21.15 The Applicant notes in particular in relation to LCC's request for a contribution towards Desford Crossroads, that it has not provided any justification for this request or explained how it considers the impact that the authorised development would have on the junction would justify any mitigation at the junction. It has never quantified the level of contribution to the Applicant to demonstrate why the request meets the necessary tests for a planning obligation.

Since submission of the Applicant's 'S106 Update Rule 17 Letter' document (documents reference: 9.3, REP7-050), the Applicant has reviewed and considered Warwickshire County Council's (WCC's) submissions submitted and Deadline 7 and, in response to WCC's submission, has made a manuscript amendment to the obligation securing payment of the Gibbet Hill Contribution (paragraph 8.1 of Schedule 1 of the S106 Unilateral Undertaking) to secure that the contribution can be paid to WCC or National Highways.

21.16 The obligation now reads:

- 21.16.1 "8.1 Not to Commence Development unless and until written evidence has been provided to the County Council that the Gibbet Hill Contribution has been paid to WCC or National Highways in full."

21.17 The manuscript amendments have been agreed by all land owning parties giving the S106 Unilateral Undertaking and the Applicant.

- 21.18 In respect of the obligations requested by LCC but not agreed by the Applicant, the Applicant's position remains as set out in 'Applicant's response to Deadline 5 Submissions [Part 3 – LCC]' submitted at Deadline 6 (document reference 18.19; REP6-020) and the Applicant's 'S106 Update Rule 17 Letter' document (document reference: 9.3, REP7-050).
- 21.19 Since the final version S106 Unilateral Undertaking was submitted at Deadline 7 (document reference: 9.2A), all land owning parties giving the S106 Unilateral Undertaking and the Applicant have agreed minor amendments to the S106 Unilateral Undertaking to correct typographical errors / minor drafting inconsistencies. The amendments were made in manuscript ahead of completing the S106 Unilateral Undertaking (document reference: 9.2B).