

Hinckley & Bosworth Borough Council

Interested Party Reference Number:

20039546

Response to Secretary of State:

Hinckley & Bosworth Borough Council

**Application by Tritax Symmetry
(Hinckley) Limited for an Order Granting
Development Consent for the Hinckley
National Rail Freight Interchange**

(ref. TR050007)

1. Executive Summary

- 1.1. This is the response of Hinckley and Bosworth Borough Council (“HBBC”) to the invitation of the Secretary of State to respond to the additional submissions in respect of the application by Tritax Symmetry (Hinckley) Limited (“the Applicant”) for development consent for the Hinckley National Rail Freight Interchange (“the Proposed Development”) on land located to the west of junction 2 of the M69 and east of the A47, to the north east of Hinckley (“the Application Site”).
- 1.2. HBBC’s position on the merits of the Proposed Development remains unchanged and HBBC continues to vehemently oppose the Proposed Development on the basis of the far reaching adverse environmental and social impacts it would cause in the local area. HBBC engaged with the Applicant and the ExA throughout the examination of the proposal and has continued to engage latterly with the Applicant following the Secretary of State’s subsequent communication.
- 1.3. HBBC is disappointed that the Secretary of State felt that she did not have sufficient clarity of recommendation from the ExA following a robust examination of the Proposed Development. The ExA’s recommendations were clear that the Proposed Development was not of significant enough national benefit to be granted. It is still unclear why the Secretary of State felt the need to grant the applicant additional time to remedy the issues highlighted by the ExA that weighed heavily against the granting of the DCO.
- 1.4. Nevertheless, having considered the additional submissions made by the Applicant on 10th December 2024 HBBC submits that in the overall planning balance there continues to be matters which have not been sufficiently resolved which continue to weigh heavily against the issue of the DCO.
- 1.5. HBBC still has significant concerns with respect to highway impacts and the likely harm to the Strategic Road Network (“SRN”) at Junction 21 of the M1 motorway caused by the inappropriate use of the ‘LinSig’ model to assess the impact of the proposal rather than the VISSIM model which is advocated by LCC and National Highways but continues to be rejected by the Applicant.
- 1.6. HBBC welcomes the proposed changes to reduce the impact of the acoustic barrier on the residents at Aston Firs, but advises that the landscape treatment of the 12m wide buffer, created between the edge of the Aston Firs site and the new location of the 3m high gabion wall closer to the carriageway, be carefully considered to ensure that the route remains safe for users and does not encourage antisocial behaviour.
- 1.7. Whilst HBBC acknowledges that revisions to the HGV Routeing Strategy now embodies concerns that had previously been expressed about the fines system, there remain concerns that the HGV Routeing Strategy cannot be enforced by HBBC and the Council agrees with the ExA conclusion that as the proposed mitigation fund was not secured through a Planning Obligation this should be disregarded. HBBC also believe that the Sustainable Transport

Strategy will be ineffective in overcoming the unsuitability of the location to make it a sustainable location for a variety of modes of transport, leaving reliance on single car occupancy to prevail.

2. Introduction

- 2.1. This is the submission of Hinckley and Bosworth Borough Council (“HBBC”) to the invitation from the Secretary of State to comment on the additional information submitted by Tritax Symmetry (Hinckley) Limited (“the Applicant”) following the Secretary of State’s ‘minded to refuse’ letter in respect of the application for development consent for the Hinckley National Rail Freight Interchange (“the Proposed Development”) on land located to the west of junction 2 of the M69 and east of the A47, to the north east of Hinckley (“the Application Site”).
- 2.2. HBBC is an Interested Party (IP reference 20039546). As an IP HBBC has actively participated in the DCO process including responding to all deadline response dates and attending all hearings during the course of the Examination between September 2023 and March 2024.
- 2.3. HBBC considered the examination of the Proposed Development to have been conducted in a professional manner and in accordance with the prescribed process. The Examining Authority (ExA) conducted an independent, objective, robust and transparent examination of the proposal and its multiplicity of impacts. The ExA report is comprehensive and thorough having examined all aspects of the proposal and made a clear and unambiguous recommendation that the DCO should not be granted.
- 2.4. This document sets out HBBC’s responses to the Applicant’s recent submissions and explains that HBBC’s opposition to the granting of the DCO is maintained. The additional information submitted by the Applicant has not altered HBBC’s overarching position. Except where expressly stated in this document, HBBC maintains the objections submitted during examination.
- 2.5. The contents of this document covers the submissions invited by the Secretary of State relating to junctions 1,2 & 3 of the M69 and especially the impact on J21 of the M1; the changes proposed to the noise mitigation at Aston Firs and the consequences for the Equality Act; the amendments to the HGV Routeing Strategy; the amendments to the Sustainable Transport Strategy and additional matters submitted by the Applicant which the Secretary of State had not specifically invited. The Council makes no comment on the specific matters relating to proposed changes to the highway in Sapcote, improvements to Narborough Crossing, Dr & Mr Moore’s submissions, nor plot 73 and these are left for the appropriate others to respond to.

3. Junction 3 of the M69/Junction 21 of the M1

- 3.1. HBBC as the local authority and Leicestershire County Council (“LCC”) and National Highways as Highways Authorities made detailed representations throughout the examination process raising significant concerns that the Applicant has failed to appropriately assess and mitigate the Proposed Development’s impacts on both the Strategic Road Network (SRN) and the Local Road Network (LRN). Both HBBC and LCC expressed significant concerns at the lack of appropriate detailed modelling of the M1/M69 Junction. Consequently there is significant uncertainty as to the impacts of the Proposed Development on the highway networks and consequential environmental impacts associated with the additional traffic.
- 3.2. The ExA agreed that the absence of this detailed modelling was a failure on the Applicant’s part to properly address the junction and that this should be given very substantial weight against the making of the DCO [3.3.478] and that it follows that the Applicant has not demonstrated that the Development would minimise the risk of road casualties and an improvement in road safety in accordance with both the National Networks National Policy Statement (NPSNN) and the then draft National Policy Statement (dNPSNN).
- 3.3. The fundamental issue is that there remains disagreement between the Applicant and other parties as to the appropriateness of the modelling and hence impact assessment of this critical junction. The applicant has used a ‘LinSig’ model as opposed to a VISSIM model as the appropriate model to use in considering the effect on J21 of the Proposed Development. The view of National Highways (NH) and LCC is that the ‘LinSig’ model is not appropriate to understand and consider the full impact of the development on this significant motorway junction and its associated traffic movements on the immediate surrounding LRN, and HBBC agrees fully with this view. The councils consider that the only appropriate model is the VISSIM model as this is the only model which replicates the more complex traffic movements at this junction. Indeed the ExA agreed that the VISSIM model was the appropriate model to use rather than the ‘LinSig’ model [3.3.470].
- 3.4. In spite of the Secretary of State’s invitation in the ‘minded to refuse’ letter to the Applicant to submit further evidence in the light of the ExA’s concerns, the Applicant has simply continued to contend that the ‘LinSig’ model is appropriate. The fact that the ExA recognised that there is no up to date VISSIM model that the Applicant could use [3.3.467], does not mean that a VISSIM model is not the appropriate model to be used. Indeed over the period the Applicant has been developing the details of the Proposed Development in the run up to submitting the DCO application there has been more than ample time to develop a VISSIM model – the Applicant developed VISSIM models for the other two junctions of the M69, but not the M1 which is arguably more critical. In fact the Applicant submitted a scoping note for VISSIM modelling of this junction to LCC and National Highways six years ago in 2019 and indicated that they planned to start coding the model. The fact that the Applicant has chosen not to continue to complete this work is not justification for the use of

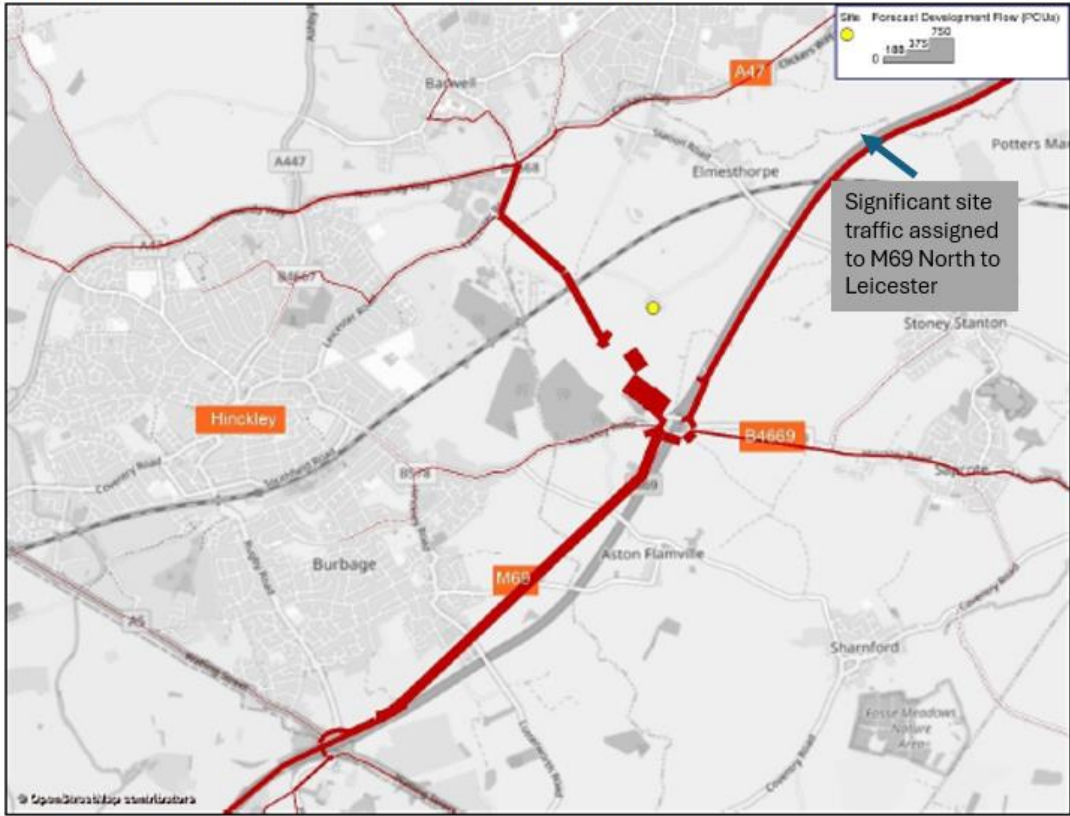
the 'LinSig' model and those fundamental objections set out by HBBC and LCC previously and agreed by the ExA remain valid.

- 3.5. The Applicant cites engagement with National Highways and their consultants AECOM to further validate the 'LinSig' modelling and that through their Technical Notes that the model has been validated and is therefore acceptable. This though is misleading. The Statement of Common Ground between the Applicant and National Highways that has been submitted by the Applicant for consideration (19.7C) makes a clear distinction between item 20 where the 'LinSig' model validation is agreed and item 2 under matters of disagreement which states that *"there is disagreement on the approach to modelling (VISSIM vs LINSIG) at M1 J21/M69 J3"*. It is somewhat disingenuous of the Applicant to try to persuade the Secretary of State that National Highways agrees the appropriateness of the use of the LinSig' model when quite plainly National Highways still considers that VISSIM is the appropriate model.
- 3.6. Consequently, HBBC continues to have significant concerns over the way the applicant has modelled and assessed the impact of this development at J21 of the M1 and does not accept the latest submissions as having addressed this. HBBC notes that this junction is the most important junction on the local network, is heavily congested already and is the main route to/from the north for this very large development. It is also a junction that has a significant effect on the volume of traffic that moves on the local roads in both Hinckley and Bosworth and Blaby Council areas.
- 3.7. HBBC supports the LCC view that the strategic model shows development traffic using this junction and displacing other traffic on to the local road network ("LRN"). HBBC concur with the LCC request that that the Applicant should provide mitigation to attract back the displaced traffic which would, potentially, reduce the need for mitigations on the LRN [ER 3.3.315].
- 3.8. To assist the Secretary of States consideration of this matter, the impact claimed by the Applicant to be without need of mitigation is shown graphically in the figures below, all taken from the Applicant's Model Forecasting Report¹:

Figure 2.1 of this report shows the distribution of traffic to the development in the am peak in 2026, clearly showing very high volumes of development traffic wishing to use the M69 from Leicester to the site (the corresponding figure for traffic travelling from the development shows a similar picture heading away to the north).

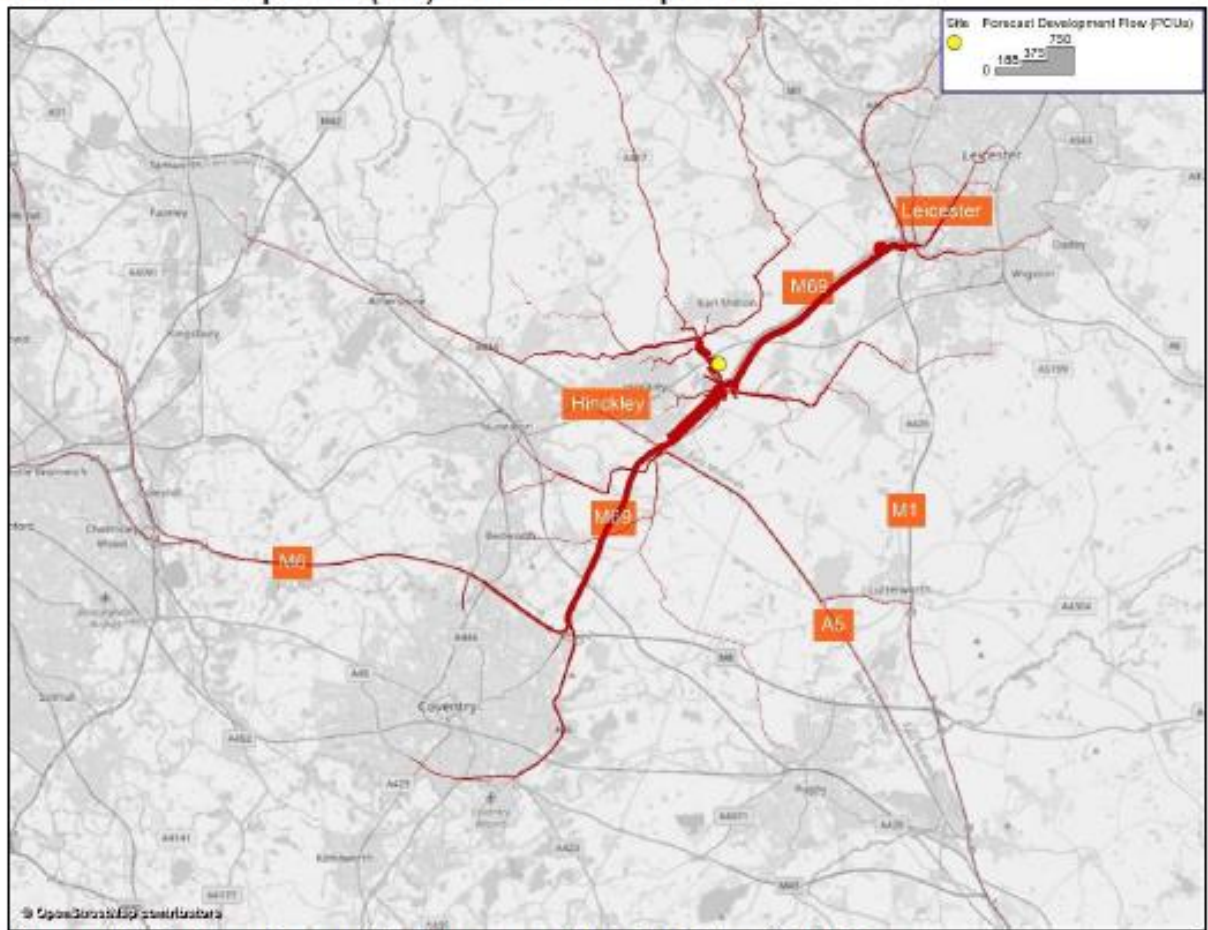
¹ PRTM v2.2

Figure 2.1: Light Vehicles Trip Distribution to and from the Hinckley NRFI Development Site
2026 'With Development' (AM) - To the Development



Map contains Ordnance Survey data © Crown copyright and database right 2022

Figure 3.1: Light Vehicles Trip Distribution to and from the Hinckley NRFI Development 2026 'With Development' (AM) - To the Development

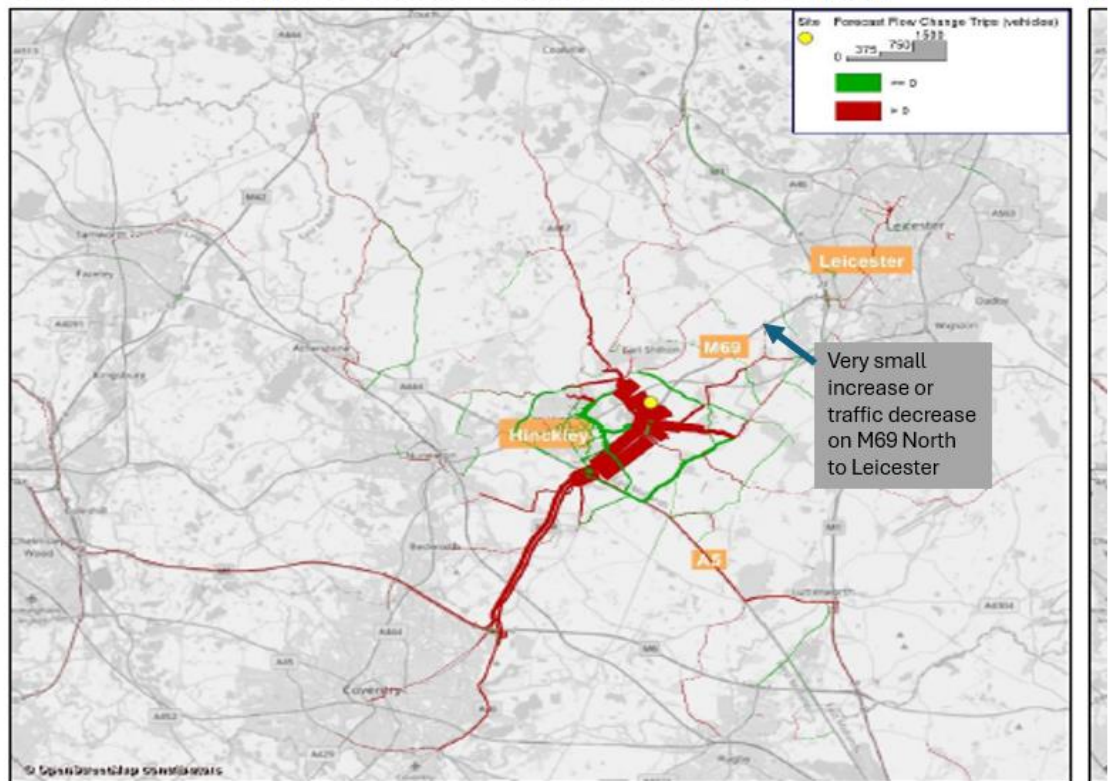


3.9. However Figure 3.6 shows the actual modelled traffic – there is a very small increase in one direction and a decrease in traffic on the M69 north post-development. This is because of the conditions at J21 and the Applicant's additional traffic: in effect every single vehicle added by the development pushes off the M69 an existing vehicle to less suitable local roads. This outcome is almost entirely due to the congestion at J21 of the M1. It is for this reason that HBBC (and LCC) are insistent on the correct modelling of this junction so that the impact and knock-on impact and appropriate mitigation can be properly understood.

Figure 3.6: Forecast Flow Change for the 2026 and 2036 'With Development'

2026 'With Development' minus 'Without Development' (AM)

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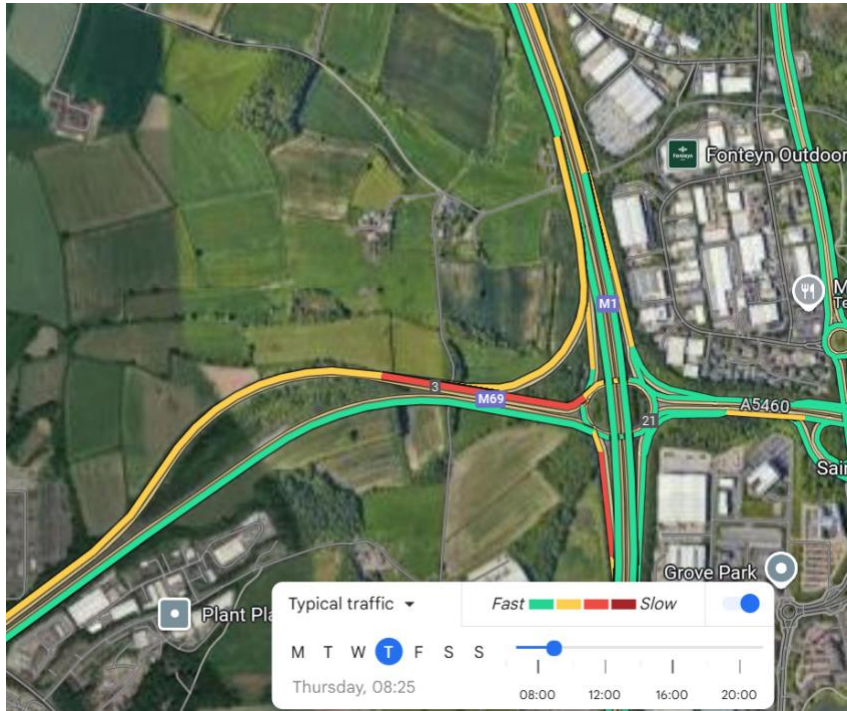
- 3.10. HBBC notes that in this context, safety is also a critical issue – traffic on motorways has a far better safety record than traffic on general urban and rural roads. DfT statistics² show that in 2023 motorways had 75 casualties of all types per billion vehicle miles of travel; for rural roads this was 299 casualties (4 times as high) while for urban roads this was 719 (10 times as high). The development scheme, without mitigation at J21, is displacing hundreds of vehicles each day onto local rural and urban roads in the vicinity, which cannot be regarded as ‘minimising the risk of road casualties from the scheme’ (Para 4.66 of [ER 3.3.471]).
- 3.11. HBBC fully supports the latest LCC and National Highways view that the modelling submitted by the applicant for J21 is not fit for purpose - consequently it cannot be relied upon to determine the impact of the development on the strategic and local networks and on road safety. As set out clearly by LCC and NH, the ‘LinSig’ does not adequately model the complex interactions between traffic streams here and the level of congestion. Congestion is referenced by the Applicant in the modelling report HNRFI-BWB-GEN-XX-RP-TR-000X M1 J21 Modelling Output Audit and is shown in Figure 1 of that report:

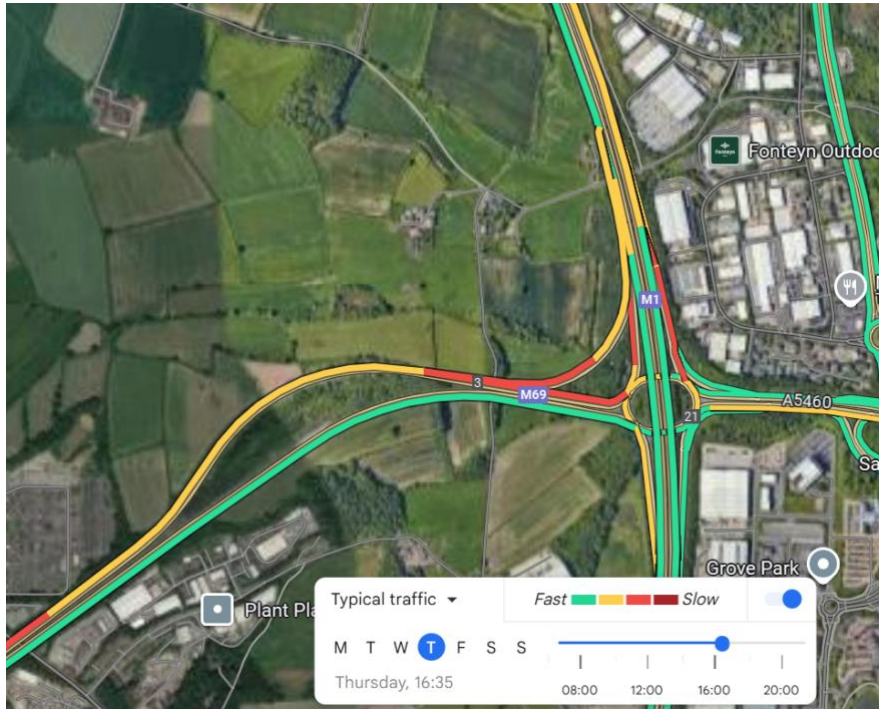
² Table 10 of Reported road casualties Great Britain, annual report: 2023, DfT, at <https://www.gov.uk/government/statistics/reported-road-casualties-great-britain-annual-report-2023/reported-road-casualties-great-britain-annual-report-2023#casualties-by-road-type>

Figure 1: M1 NB block back



- 3.12. Google Maps can be used to show typical weekday traffic delays as shown below for the am and pm peaks at the junction. This matches the practical experience of local councillors and stakeholders that the junction is very congested; that such congestion extends well beyond the immediate junction on the approaches, that there are complex interactions between the various traffic streams, and that these issues are experienced for an extensive time each day, much more than one hour in the morning and one hour in the evening.





3.13. An important issue for HBBC is the way that the correct detailed modelling of J21 is analysed and interpreted and co-ordinated with the strategic modelling. In cases of such importance, the correct detailed modelling should be used in an iterative process with the strategic modelling, as they affect each other. This has not been done in this case, and without this, there is a great deal of uncertainty about the impacts. If the detailed modelling shows that conditions are worse at J21 than currently assumed in the PRTM strategic model, then more traffic will divert to local roads in Hinckley and Blaby areas, with consequent capacity and safety issues. Conversely if conditions are better at J21, more traffic will use J21 but is likely to have a different impact on traffic and safety at this location.

3.14. HBBC has even greater concerns with this issue given that the PRTM base model significantly underestimates the flow on a key M69 approach to J21³, and that the applicants 'LinSig' model has used manual adjustments to attempt to reflect the complex conditions at J21. If the latter was not included in the PRTM model while the former underestimated PRTM delays, there is a significant risk that the reassignment of traffic to local roads in Hinckley and Blaby has been underestimated.

3.15. HBBC also notes that the addition of the development traffic to this critical

³ (see TR050007-000752-6.2.8.1 Hinckley NRFI ES Appendix 8.1 Transport Assessment [part 7 of 20] PRTM 2.2 Base Year Model) in Table 3.4 on page 17 it shows that the base PRTM model underestimates the flow on the M69 Eastbound Approach to M1 Junction 21) by some 318 vehicles in the am peak hour(the base model is 848 vehicles compared to the count of 1165). This was queried at the time. The M69 between Junction 2 and Junction 3 - North-Eastbound also underestimates traffic by some 119 vehicles.

location will have a major impact on the network resilience and reliability, making its modelling even more important. The fact that there is a decrease in the morning peak hour and a very small increase in the evening peak hour when the 321-443 vehicles from the development are added to the network shows that the development traffic will take up any spare capacity, leaving the network post-development even more vulnerable to incidents of all types. This again has a knock-on effect on safety within the Hinckley and Blaby areas as traffic diverts to local roads.

- 3.16. The Applicant was requested more than 2 years ago to develop a VISSIM model (they did develop these for J1 and J2 of the M69) but consistently avoided doing this. HBBC understands that the Applicant had previously prepared a draft scoping note for this, but this was never formalised. HBBC therefore does not accept that the Applicant had insufficient time to produce this modelling.
- 3.17. The Applicant claims that flows through the junction are likely to be so low that the impacts will be minor, and hence that VISSIM modelling is not required, no mitigation is needed and there will be no safety impacts. HBBC notes as above that without the appropriate local modelling and comparison/iteration with the PRTM strategic model, it cannot be confirmed that the PRTM strategic model is correctly modelling the scenarios, and that the level of traffic predicted to use J21 and the local network is a robust estimate. In addition HBBC notes that the applicants LinSig model is for only one peak hour in the morning (07:30 to 08:30) and evening (16:30 to 17:30), when the peak times at this junction extend beyond these hours, and the PRTM strategic model has modelled different times - 08:00 to 09:00 in the morning and 17:00 to 18:00 in the evening, so these are not compatible. It is however very common in VISSIM modelling to model a longer morning and evening time period to allow for extended peaks and knock-on impacts from one hour to the next, which reinforces its suitability for this case..
- 3.18. The Applicant claims that there will be minimal impacts on road safety based on their analysis of Personal Injury Accidents (PIA) using COBALT, which is a DfT tool for accident analysis. In this respect HBBC notes that firstly as noted above, given that current modelling of J21 is not appropriate, and that iterations with the strategic model have not been undertaken, the low flows at J21 and the reassigned flows on the local network quoted by the applicant cannot be relied on as the basis for the COBALT analysis. Secondly, as stated in the ES (Para 8.240) COBALT does not consider link or junction geometry, road surface material to manage vehicle speed, signage or lighting, all factors which can influence the occurrence of accidents. HBBC does not believe that it can be depended on as the main analysis of safety for a complex junction like J21 which is subject to high congestion levels and high volumes of blocking back. Finally, HBBC notes that the COBALT analysis does not appear to model all the junctions in the study area in detail, including many that are subject to

reassigned traffic on local roads.

- 3.19. The consequences of the inappropriate modelling undertaken to M1 J21 are significant. Both Hinckley & Bosworth and Blaby are areas of significant current and future housing and employment growth. Impacting on the operation of M1 J21 are substantial urban extensions, including New Lubbesthorpe in Blaby, and SUE's at Barwell and Earl Shilton in Hinckley, totalling in excess of 10,000 dwellings. Further, HBBC have recently consulted on their Reg 18 draft Local Plan, outlining planned growth, including strategic sites, for up to 14,000 dwellings to 2041. With the new standard method figures published on 12 December 2024, this level of growth has increased by c.4,500 additional dwellings to 2041 and will also likely lead to further speculative applications coming forward due to this 50% increase in the standard method housing need figure. With this existing and planned substantial levels of growth, the inappropriate modelling undertaken to M1 J21 will have wide reaching consequences and potentially undermine future growth in Hinckley and Blaby.
- 3.20. In summary, HBBC objects in the strongest possible terms to the applicant's modelling and assertions regarding J21 of the M1. HBBC does not accept the applicant's dependence on use the 'LinSig' model to demonstrate that M1 J21 and the surrounding LRN is not going to be severely impacted by the Proposed Development. Quite clearly the VISSIM model is the appropriate model to assess the potential impact of the development and for this information to be iterated with the strategic model forecasts. This junction is already significantly over capacity with consequential queuing on surrounding Local Highway Network junctions and roads which the proposed development will exacerbate. National Highways and LCC continue to raise objections to the use of the 'LinSig' model to assess the impact of the development. The ExA examined the matter thoroughly during the hearings and came to the clear conclusion that VISSIM was the appropriate model. There should be no justifiable reason, based on the additional information submitted by the Applicant, for the Secretary of State to deviate from the ExA's findings and to now agree that the impact of the Proposed Development on this important motorway junction is going to be acceptable.

4. Aston Firs

- 4.1. The Secretary of State has indicated that she is minded to agree with the ExA that the proposed acoustic fence would be visually dominant and oppressive to the "*considerable detriment*" of the living conditions and potentially on the mental health of a number of the occupiers living on the Aston Firs Traveller Site. It is considered that this would amount to discrimination of race as defined by the Equality Act 2010 as it would be a physical dividing barrier between the Traveller community and the non-Traveller community. As a consequence, the Proposed Development would not advance equality of opportunity with those with a protected characteristic of race as a result and the ExA recommends that this should be given very substantial weight against making the DCO.
- 4.2. Given that the ExA's recommended Order requires the Applicant to submit

details of the construction, height, position, form and appearance of the acoustic barrier before construction of the HNRFI facility commences, the Secretary of State has invited the Applicant to submit those details now to see if they can be designed to overcome the concerns.

- 4.3. In responding to the ExA's concerns the Applicant has focused attention on the length of proposed 6m high fencing along the south eastern boundary; the proposed 4m high fencing on the north western boundary being considered less concerning by the ExA. The Applicant indicates that the ExA had misunderstood their position that the location and height of the fence represented the 'optimum position', meaning in noise impact terms, not aesthetics. Consequently the Applicant has undertaken further work to consider the fence and now proposes the relocation of the fence to create a 12m buffer between the fence and Aston Firs, together with a reduction in its height to a maximum of 3m. The fence is also replaced with a gabion wall option.
- 4.4. HBBC acknowledges the efforts of the Applicant to reduce the impact of the acoustic barriers on the residents of Aston Firs and agrees that the gabion wall proposal is aesthetically preferable to a fence. The Council also acknowledges that moving the acoustic barrier on the south eastern boundary away from the boundary with the Aston Firs site and closer to the highway, thus placing it closer to the source of the noise, is beneficial. Although it is noted that there is a relatively minor increase in noise levels at Aston Firs this is predominantly caused by the break in the screening to accommodate the bridleway. HBBC is content that the Applicant has tested a variety of barrier scenarios and that the gabion option is the most preferable.
- 4.5. HBBC recommends that the treatment of the new 12m buffer between the acoustic barrier and the Aston Firs site is carefully considered to ensure that natural surveillance is maintained in order to ensure it does not attract antisocial behaviour. Unfortunately, the Design Code provides insufficient detail on how this public realm will be managed safely.
- 4.6. Notwithstanding the ExA view on the 4m high barrier which remains along the north western boundary, HBBC remains of the view that this is unacceptable and does not represent 'good design'. This barrier will continue to be unsightly and an inhospitable boundary for the Aston Firs residents as well as being visually unattractive to wider views from beyond the fence from the eastern side of Freeholt Wood. Further, it appears that the fence will require the removal of existing trees and hedges and no attempt has been made to see whether the minor relocation of this fence might reduce the existing vegetation which has to be removed.
- 4.7. In terms of the equality duty, it will be for the Secretary of State to decide when discharging that duty whether the Applicant's proposed amendments are acceptable in terms of the impact on protected characteristics groups.

5. Sustainable Transport Strategy

- 5.1. The Secretary of State has invited the Applicant to submit further comments on the Sustainable Transport Strategy (STS). The ExA noted criticism from interested parties, including National Highways, that there was a lack of emphasis on walking as a sustainable mode of travel. Further the Applicant's aim to reduce single car occupation from 75% to 60% over a ten-year period was also criticised as insufficiently challenging. The ExA concluded that the single car occupation would make the target less challenging as it only related to the vicinity of the Development site rather than where employees actually live. Furthermore, it is clear that minimising employee car parking on site can encourage use of alternative modes and the introduction of the potential for decked parking does little to discourage car travel.
- 5.2. The ExA also found that the Demand Responsive Travel (DRT) proposal did not have the equivalent benefit of a six-month bus pass to subsidise travel for employees and that this was a significant deficiency in the STS.
- 5.3. The ExA was also critical that the Applicant had not investigated whether the feasibility of a new rail passenger station at Elmesthorpe was a viable option. The ExA placed little weight on Network Rail's evidence which confirmed that a station was not needed as in the ExA's view this had been based on the basis of current demand and not the additional demand which might arise from employees at the Proposed Development.
- 5.4. Overall the ExA's view was that the STS did not accord with the NPSNN which was effective at the time the application was examined and that it had not been demonstrated that the location could be made sustainable. The ExA recommended that this should weigh substantially against the granting of the DCO.
- 5.5. The Applicant has submitted a revised STS including an amended commitment to a modal shift from 66% to 40% of single occupancy vehicles in 10 years and the provision of a free six-month bus pass for employees using the DRT. Further the Applicant proposes an additional private bus service (also including a free six-month bus pass) from the south east of Leicester City to the site.
- 5.6. The Applicant rejects the ExA's amendment to the Detailed Design requirement in the DCO relating to the decked parking indicating that parking numbers would only be in accordance with the County Council's standards.
- 5.7. The Applicant also rejects the policy requirement relating to Elmesthorpe Rail Passenger Station, being only a policy aspiration of HBBC. The Applicant submits a report from Network Rail which also rejects the idea (Appendix 7). The owner of the stations – Cross Country Trains (as the relevant Train Operating Company) also rejects the idea of the new station.
- 5.8. HBBC welcomes the higher non-car mode share targets, additional bus services to South-east Leicester and 6-month free travel pass for DRT services proposed by the applicant in the revised STS and Travel Plan (TP). HBBC

notes that there remain inconsistencies in the material submitted by the Applicant, for example in Table 6.2 of the TP the 10-year target is given as 55%, but the text in 6.9 refers to a target of 60%. HBBC also notes that the targets are labelled as 'preliminary' which gives no confidence that they will be met or can be enforced.

HBBC agrees with the ExA (7.4.105) that despite these changes, the basis for the targets remains insufficiently ambitious, being based on the site location rather than where employees would be likely to live. In addition the Council still has significant concerns about whether and exactly how these targets will be achieved given that they are based on very broad and loose proposals for DRT services which are critical for travel in the HBBC and BDC areas (no effective Level of Service or service outcomes is proposed, for example no firm indication of how long employees will need to wait for a service, or indeed the cost and journey time); little information on the car sharing proposals which are critical for the targets; the new bus service to SE Leicester is not well defined and the mitigation for not achieving these targets (for example the possibility of reducing or charging for car parking) is not included. HBBC also notes that while reference is made to East Midlands Gateway (EMG) as an example of similar mode shift targets, the bus offer at EMG is far higher than that proposed for HRNFI, EMG is located adjacent to the local airport and able to take advantage of airport-related bus services. This introduces significant doubt regarding achievement of the targets with the currently proposed bus services.

Furthermore there is ambiguity about who will be ultimately responsible for the achievement of the STS (there is reference to Travel Plan Coordinators which implies tenants, and not the Site-Wide coordinator); the supposed mitigation mentioned in section 10.4 appears to focus on 'softer' measures and not the most likely more effective measures such as more/cheaper buses or parking restraint; there are no funds set aside for such mitigation and no clear sanctions should the targets not be achieved. These same concerns also apply to the proposed Travel Plan.

- 5.9. HBBC's overall position regarding the inadequacies of the STS has not changed as a result of the Applicant's latest revisions. There remains fundamental concerns that the proposed DRT service is ill suited to serving shift patterns because there remains an inherently inflexible approach to routing, and requires clear service requirements to be effective. The Council agrees with the ExA that the STS (and the associated Travel Plan(TP) has (1) no funding and clear effective Action Plan should these targets not be achieved (for example the provision or pricing of car parking as identified by the ExA in 3.3.410) (2) no appropriate sanction should the targets not be achieved (3) the targets are labelled as 'provisional' in the STS and 'indicative' in the TP. These concerns are given additional weight by the Council given the issues regarding J21 of the M1 referred to above.

- 5.10. Given the Applicant's traffic case, which shows that for J21 every new development vehicle will be diverting other traffic onto the local road network, the success of the travel plan is critical for the future impact on the local area. For this reason, HBBC fully supports the ExA recommendation in 7.4.106 that, if the DCO is made, the current STS should not become a certified document under Schedule 15 and Requirement 9 be redrafted to require a revised version of the STS to be formally re-submitted for approval by the relevant local planning authority before any floorspace is occupied. As well as addressing the specific concerns identified by the ExA, this would provide an opportunity for the Applicant to bolster the current STS and provide an enhanced strategy which is more likely to support sustainable transport.
- 5.11. Without this amendment HBBC agrees with the ExA conclusions (3.3.426) that the Proposed Development would be contrary to paragraph 5.211 of the NPSNN and paragraph 5.277 of the dNPSNN. Consequently, the Applicant has not maximised opportunities to allow journeys associated with the development to be undertaken by sustainable modes (paragraph 5.278 of the dNPSNN). It also, therefore, has not been demonstrated in the Proposed Development that this is in a location that can be made sustainable (see paragraph 12 of Circular 01/2022). This should be given substantial weight against the Proposed Development.
- 5.12. HBBC continues to believe that making walking and cycling to the site as safe and appealing as possible is essential. The Proposed development should prioritise secure, well located cycle parking, good lighting and clear pedestrian priority within and around the car parks. A more 'cycle first' approach should be promoted throughout the development by improving and expanding segregated routes around the site. Reference to LCC's latest Local Transport Plan 4 (LTP4) which can be found here - <https://www.leicestershire.gov.uk/roads-and-travel/local-transport-plan/local-transport-plan-ltp4>
- 5.13. HBBC remains concerned about the potential for decked parking and the consequential handling of design. The approach should be to reduce the visual dominance of cars in favour of creating a more natural landscape which is appropriate to its setting and context. By incorporating smaller, less visually prominent parking areas the design would prioritise pedestrians and foster a calmer, greener environment and embracing a less car driven culture. Consequentially the user experience is improved with more emphasis on a sense of openness and connection to nature than visually dominant vast expanses of hard surfacing.
- 5.14. HBBC notes the latest information provided from Network Rail regarding the feasibility of a railway station at the site. HBBC also notes the Applicant's response that Policy 5 of the HBBC Core Strategy does not require a new passenger rail; station to be provided, it simply says that HBBC would support a proposal for a new passenger station. The fact that in making its submissions to the ExA HBBC did not reference this part of Policy 5, nor has it made such

a reference to this part of the Policy in determining planning applications doesn't render the Policy invalid. The Policy simply says that were a passenger station to be brought forward for Elmeſthorpe then it would support such a proposal. This does not prevent the ExA from placing weight on the absence of a proposed station being considered counting substantially against the DCO based on the Development site being rendered an unsustainable location. There are local communities in Hinckley, Burbage, Barwell and Earl Shilton (circa 70,000 residents) where potential new employees are located and who should expect readily available public transport to and from the site at convenient times in order to reduce reliance on the car and whom would benefit from a new passenger rail station (see 3.19). HBBC could not find any reference to consideration by NR in their report of the local travel opportunities open to the population and planned growth of Barwell and Earl Shilton, despite the fact that these communities would be close to a potential station. Indeed the report claims in 7.2.1. *'The proposed station would be sited between Hinckley and Narborough and as far as local community outward travel is concerned offers no additional travel opportunities'*.

- 5.15. The Network Rail report concludes that there is nothing in principle based on engineering and topographical considerations that would prevent construction of a passenger station at this location. While the report concludes that there will be insufficient passenger demand, HBBC notes that it only appears to review possible patronage from the HRNFI site, and not the residents and employees of Barwell and Earl Shilton and the proposed urban extensions of these settlements, which will be as close to any proposed railway station as the site is. On the whole HBBC remain unconvinced by the feasibility report, which appears to have been developed at short notice following the examination.

6. HGV Routeing Strategy

- 6.1. The Secretary of State has invited further comments from the Applicant on the HGV Route and Management Plan (HGVRP) after noting that the ExA agreed that the 'maximum' penalty of £1000 for those in breach of the HGVRP would not be a significant deterrent and that rather a fixed amount of £1000 should be set. Further, the Secretary of State notes that concerns were expressed around daily breaches of the HGVRP and thresholds and whether the approach to proportionately shared breaches was appropriate. The ExA considered that consequently, triggers were less likely to be reached during the first phase of the Development and that undesirable route patterns would occur in the initial phases. The ExA concluded that the HGVRP did not appropriately consider enforcement or deal with mitigation and was not fit for purpose and weighs substantially against the Order being granted.
- 6.2. Although the Applicant indicated that it would provide a fund of £200,000 to be secured through the DCO to be used to implement measures which were identified after the development became operational to discourage HGV routeing through the prohibited routes (e.g. strategic signing or Traffic Regulation Orders); as this was not secured through a Planning Obligation the ExA said that this should be disregarded.
- 6.3. Rather than adopt the approach recommended by the ExA [7.4.124] that the HGVRP should no longer be a certified document, the Applicant has chosen to submit document 17.4F which amends the HGVRP to take account of the ExA's concerns re triggers and fines. The proposal means that all occupiers of the development will be subject to a financial penalty immediately and each time a breach of the HGVRP is recorded. Further, the amended HGVRP sets a £1000 penalty for each breach, index linked. Additionally the £200,000 fund is secured by way of a Unilateral Undertaking to LCC.
- 6.4. HBBC submitted its comments on the HGVRP during the examination [REP5-023 & REP6 - 032]. HBBC recognises that the amendments made in the revised HGVRP addresses the concerns raised by the ExA. The revisions offer an improvement in terms of the clarity on the type of measures that could be implemented and the mechanisms for delivering these.
- 6.5. Whilst HBBC welcomes the amendments to the enforcement of the HGVRP proposed by the Applicant, there remains some concern that the matters expressed by the ExA's conclusions in 3.3.438 that the mitigation proposals are not convincing, means that the Proposed Development may have greater effects from traffic than identified which would not have been assessed. HBBC therefore remains of the view expressed by the ExA that the HGVRP should not be a certified document under Schedule 15 and that Reg 9 be redrafted so that the HGVRP effectively becomes an outline HGVRP which would then need to be formally re-submitted and approved by the relevant local planning authority.

- 6.6. HBBC remains concerned that the HGVRP still does not include the A47 within the list of prohibited routes. The Council remains concerned that this may result in unwanted HGV traffic leaving the site and travelling west along the A47 link road and then enabling unrestricted access either north (to the A47) or south (into Hinckley) along the B4668 junction and this remains a significant concern to the Council.

- 6.7. Although the £200,000 fund is now proposed through a Unilateral Undertaking in favour of LCC it is understood that LCC continues to oppose the administration of the fund sitting with them and this continues to raise doubt about the efficacy of what the Applicant is proposing.

Other matters covered by the Applicant

7. Junctions 1 & 2 of the M69

- 7.1. HBBC understands the reason that the Applicant has sought to clarify this matter for the benefit of the Secretary of State and accepts that National Highways has now agreed the furnishing methodology and that this is recorded in the Statement of Common Ground with the Applicant at Document 19.7C. Further HBBC understands that the VISSIM model for J1 has been agreed.
- 7.2. HBBC understands that LCC has significant reservations regarding the issues raised in the Road Safety Audit (RSA) for the VISSIM modelling at J2 of the M69. HBBC continues to support the LCC position on this matter.

8. Public Right of Way

- 8.1. HBBC acknowledges the changes made to the PRoW and the inclusion of the 'wellbeing zone' but there remain concerns at the location and treatment of this area. The vehicular access to the A47 Link Road will be heavily trafficked and impact on the overall experience of the bridleway users and there is a lack of protection from the traffic on M69 for those users of the bridleway.

9. Statement of Common Ground and 'Position Statement'

- 9.1. The Applicant has approached the Council on two further matters, firstly to update the originally submitted Statement of Common Ground between the two parties following the ExA's report; and secondly in response to the request in the Secretary of State's letter of 20th December 2024 requesting the Applicant to provide an update by 7th February 2025 on any matters that remain outstanding including the status of negotiations and whether there might be agreement with relevant Interested Parties.
- 9.2. BDC has considered the Applicant's request on both matters carefully. The Council is not minded to update the Statement of Common Ground. There has been no request to do so by the Secretary of State and the Council's view is that what was submitted to the ExA does not require updating, it remains factually correct at the point of its consideration by the ExA.
- 9.3. The Applicant has interpreted the Secretary of State's request for their update as requiring a 'position statement' and has invited the Council to be a signatory to such a document. It is the Council's view that the Secretary of State's request is specifically a request to the Applicant (in bold in the letter of 20th December) to provide such an update and does not require any agreement or signature by the Council. The Council therefore leaves the provision of such an update to the Applicant to submit.

10. Conclusions

- 10.1. HBBC maintains its vehement opposition to the Proposed Development which has been characterised by an overdevelopment of the Application Site and the introduction of an urban landscape that is alien to the surrounding environment. HBBC is surprised that the Secretary of State has not raised her concerns about the impact of the development on the wider landscape of the area which the ExA considered would be “*substantially harmful and would significantly alter the rural setting of nearby villages including Stoney Stanton and Elme Thorpe*” [3.4.52]. The ExA concluded that “*the Applicant has therefore underplayed residual visual and landscape effects*” [3.4.52] The ExA felt that this should give substantial weight against the making of the DCO.
- 10.2. The site is part of a relatively tranquil rural landscape between the urban areas of Burbage, Hinckley, Barwell and Earl Shilton which lie to the west/north and the M69 part of a wider vale which extends from the settlements to the Soar tributaries in the east. Burbage Common & Woods LNR is a site of National importance located immediately adjacent to the development, as is the Aston Firs SSSI and Freeholt Wood. The development will irrevocably change the character of the extensive site from open countryside to industrial/urban, with complete loss of all features including the mature trees (and the veteran tree) and hedgerows, water features and rural farms within the site.
- 10.3. HBBC is further surprised that the Secretary of State has not chosen to highlight the concerns the ExA expressed that the Proposed Development represented poor design and that the Applicant had not demonstrated that the adverse landscape and visual effects had been minimised through appropriate design, creating conflict with the NPSNN and the dNPSNN. the Council remains firmly of the view that the proposal does not constitute ‘good design’ as set out in the NPSNN.
- 10.4. HBBC remains of the view that the Proposed Development would result in significant adverse highways impacts which the Applicant has under investigated and insufficiently mitigated. The further submissions in respect of the modelling of J21 of the M1 continue to raise concerns that the Applicant is underestimating the impact of the development at the junction of J21 of the M1 and J3 of the M69 to the detriment of the LRN.
- 10.5. HBBC accepts that the revised proposals for Aston Firs will make an improvement to the residents of the site through the relocation and redesign of the acoustic barrier, but there remain concerns at the retention of the 4m high fence at the rear of the site.
- 10.6. HBBC welcomes the proposed changes to the HGVRP which add clarity and robustness, but the same is not true of the changes to the STS which still renders in an unsustainable location where there is insufficient incentive to

modal shift to meet the revised targets set out by the Applicant to achieve a reduction from 66% to 40% single car occupancy over the ten year period.

- 10.7. HBBC submits that the application for the Proposed Development should be refused.