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Dear Sirs

Planning Act 2008 - Application by Tritax Symmetry (Hinckley) Limited for the proposed Hinckley Rail Freight Interchange Development Consent Order

Further to your consultation letter dated 20 December 2024, please find attached our comments on the additional information submitted by Tritax Symmetry (Hinckley) Limited on 10 December 2024.

Our comments are set out in table form below with the right-hand column setting out Leicestershire County Council's (LCC) position. It is perhaps worth highlighting LCC's overall position on four of the key issues:

- (i) M1 J21: The Applicant's further submissions have simply re-iterated and affirmed the conclusions reached by the Highway Authorities and confirmed by the Examining Authority (ExA), namely that the Applicant has chosen not to model the junction adequately and, therefore, the proposed development impacts will increase delay and congestion, and fundamentally impact on safety at this junction and its mainline arms including M1, M69 and A5460. The full extent of impacts remains unknown as does the extent of any scheme of mitigation required. This is entirely the result of the Applicant's decision not to produce an appropriate (VISSIM) model. The M1 J21 Modelling Note submitted by the Applicant on 10th December 2024 includes queue length validation for the M69 approach to the junction which vividly demonstrates the inadequacies of the model. It suggests a 140m queue in the pm peak whereas the reality now is a queue of kilometres. LCC conclude that the Applicant has not provided any further evidence that could justify changing the ExA's recommendation to afford this matter very substantial weight against making the Order [ER 3.3.477; ER 3.3.478].
- (ii) Sapcote Village: The Applicant's further proposals in Sapcote Village do not ameliorate the highways safety risks of the proposed development, in fact, they increase the risks. LCC strongly echoes the ExA and Secretary of State (SoS) concerns in respect of the increased highways safety risk in Sapcote as a consequence of the proposed

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development and the conclusion that it would be very substantially harmful to highway safety [ER 3.3.518], even more so now given the introduction of further risks.

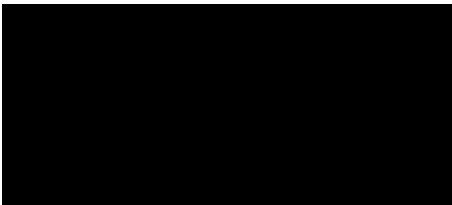
- (iii) Narborough Level Crossing: the mitigation offered does not assist at all. Bizarrely, the Applicant requires those with ambulatory issues to walk to the improved waiting facilities in the railway station.
- (iv) Sustainable Transport Strategy: the Applicant has uplifted the target mode shares. Superficially this is to be welcomed but what matters is whether there is a realistic plan to meet the enhanced targets, without which the revised targets can be given little weight. Unfortunately, the revised targets are not evidenced or supported by an increase in incentives for vehicle drivers to make the switch. Furthermore, no detailed and enforceable penalties have been identified should the targets not be met. The only interventions mentioned in the revised Strategy are promotional activities and travel clinics. The increase in targets as a result is fanciful and only plays lip service to the ExA's recommendation.

Please also find the following documents attached to this submission:

- M1 J21 2019 VISSIM Scoping Note
- Statement of Common Ground on highway matters
- LCC comments on the Applicant's position statement

LCC conclude that the Applicant has not addressed some of the fundamental transport issues with the scheme and advises that the proposed development should be refused on the basis of highways impacts.

Yours Sincerely



Head of the Growth Service

Document name	Secretary of State comments in Minded to Refuse letter dated 10 th September 2024	Applicant's letter of response dated 10 th December 2024	Leicestershire County Council (LCC) comments
Appendix 1 - M1 J21 Modelling Note	<p>49. The Secretary of State notes the disagreement between the Applicant, NH and LCC regarding the modelling conducted at the M1 Junction 21/M69 Junction 3 (Junction 15) [ER 3.3.281 & 3.3.466]. NH's concerns relate to the limitations of the LinSig model used by the Applicant on the complex junction which NH consider has the potential to overestimate the exit-arm capacity for vehicles leaving the circulatory, and as three of the four left-turn movements involve 'by-pass' slip road, these demands are "ignored" by LinSig and could exacerbate the issue [ER 3.3.282]. The Applicant responded to the concerns by providing evidence that the LinSig model had taken into account these issues in its 'M1 J21 Modelling Note' [ER 3.3.283]. However, NH highlighted that because the data submitted did not include the signal specification, it was not able to conclude how the Proposed Development might impact how the M1 J21/M69 J3 is likely to be affected. Based on the existing operational issues and the increases in demand arising from the Proposed Development, NH considered that it is likely that the Proposed Development is likely to adversely affect the safe and efficient operation of the SRN [ER 3.3.284].</p> <p>50. The Secretary of State also notes that while LCC agree that the Pan Regional Transport Model ("the PRTM") is fit for purpose and the base year model review is agreed [ER 3.3.313], it raised the following concerns:</p> <ul style="list-style-type: none"> • it disagrees with the Applicant's interpretation of the strategic model outputs and considers that the Applicant fails to acknowledge any impact at this junction. LCC's view is that the strategic model shows development traffic using this junction and displacing other traffic on to the local road network ("LRN"). LCC considers 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]; • modelling based on an unconstrained scenario is required so that LCC is able to determine the actual impact at this junction, and that they are of 	<p>2.2 Following publication of the Letter, the Applicant has had further and extensive constructive engagement with National Highways. As a result, it has made substantive progress in positively resolving the issues raised by the ExA to which the Secretary of State referred at paragraphs 49 to 52 of the Letter. This submission is accompanied by an updated Statement of Common Ground with National Highways (19.7C) which the Applicant considers satisfactorily addresses the issues raised as a result of the further agreement described below.</p> <p>2.3 As noted by the ExA [ER 3.3.467] "<i>There is no up to date VISSIM model which the Applicant could have utilised which means it would have had to build one from scratch</i>". For the reasons explained in its Deadline 8 submission [REP8-027], the Applicant does not consider that building a VISSIM model from scratch a reasonable and proportionate requirement that is necessary to assess the impacts of the proposed development at the junction. The Applicant is mindful of the requirement of Regulation 14(3)(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 that an environmental statement must "<i>include the information reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment</i>". It highlights the relatively minor number of additional trips passing through the junction in the peak periods – being a reduction of 10 vehicles in total in the AM peak and an addition of 114 vehicles out of a total number of 6,481 in the PM peak (a 1.8% increase), and the ExA's conclusion that this number of vehicles would "<i>adversely affect the operation of the junction in a minor way</i>" [ER 3.3.474]. It also notes that no other development has been required to build a VISSIM model from scratch in order to assess the impacts on this junction.</p> <p>2.4 Consequently, the Applicant has engaged with National Highways, and its external consultants AECOM, to further validate the LinSig modelling, including providing the signal specification used in its 'M1 J21 Modelling Note'.</p>	<p>LCC acknowledge that National Highways have worked with the Applicant to progress M1 J21 Linsig modelling to assist the Secretary of State (SoS). It is most unfortunate that despite arms of this junction being within LCC's jurisdiction, the Applicant has not chosen to engage proactively with LCC on this matter. Indeed, this is despite the repeated requests of LCC to do so.</p> <p>National Highways themselves acknowledge the limitations of the use of a Linsig model at this junction, including that it does not replicate actual conditions, and that a microsimulation model e.g. VISSIM/Paramics should be used [ER 3.3.466].</p> <p>This is a position that LCC and National Highways have consistently re-iterated to the Applicant over a period of 6 years. LCC can only assume that the Applicant's reluctance to carry out this work has been because they know or assume it will not show favourable results.</p> <p>The Applicant's claim that there was not time to produce a VISSIM model is totally unfounded given the request was made 6 years ago. Further, to suggest it is disproportionate to the scale of impact is nonsense given (a) the strategic importance of the junction and (b) the Applicant's modelling of other more remote junctions using this tool e.g. M69 J1, Sapcote village centre (VISSIM model built post examination from scratch). Indeed, in 2019, the Applicant's then appointed transport consultant (Hydrock) acknowledged that a VISSIM model needed to be built for this junction and circulated a note on the proposed scope of the model (as attached). The note includes reference at paragraph 1.1.3 to work on the model having commenced (October 2019).</p> <p>The Applicant also suggests in their submission letter that "no other development has been required to build a VISSIM model from scratch in order to assess the impacts on this junction". This claim is adequately addressed and dismissed in the ExA report [ER 3.3.470] and confirms that VISSIM or a similar tool should have been utilised.</p> <p>In their submission letter the Applicant refers to [ER 3.3.473] and refers to "the relatively minor number of additional trips passing through the junction in the peak periods – being a reduction of 10 vehicles in total in the AM peak and an addition of 114 vehicles out of a total number of 6,481 in the PM peak (a 1.8% increase)". This is purely a consequence of the inadequacy of the Applicants modelling. The Applicant should not be permitted to shelter behind flawed modelling results. It would make a nonsense of the assessment of the scheme. Furthermore, percentage impacts are irrelevant at an already congested junction where any additional traffic can have a significant and severe impact on queuing, delay and safety.</p> <p>On the basis that the Linsig model only assesses traffic reaching a stop line, the impact of the free flow links at this junction e.g. M69 to M1 northbound, M1 to A5460 southbound, and A5460 to M1 southbound on the junction operation have been ignored by the Applicant [ER 3.3.317]. These "missing" free flow links total</p>

the view that the Applicant is incorrectly relying on the modelling conducted for the Lutterworth East Scheme (which cannot be guaranteed and only deals with the effects of that development) and a reduction of 10% to 13% of development traffic routing from the effects of the Sustainable Transport Strategy [ER 3.3.316];

- the LinSig model does not capture all the complex movements and free flow links and thus the full effects of traffic movements. LCC's view is that LinSig would only be appropriate if the effects were negligible, as they are on the Applicant's assessment, but that prejudices results of the modelling [ER 3.3.317]; and
- LCC is of the view that the Applicant's strategy is to displace traffic onto the LRN and not to resolve the issues at this junction which is already operating above capacity [ER 3.3.318].

51. The ExA agreed with the above concerns and, whilst recognising that there is no up to date VISSIM model which the Applicant could have utilised which means it would have had to build one from scratch [ER 3.3.467], concluded that the junction needed to be modelled more comprehensively and VISSIM (or similar validated model) should have been utilised [ER 3.3.470]. The ExA considered that the Applicant has provided insufficient information to prove that this junction has been adequately modelled and therefore did not demonstrate that the Proposed Development would minimise the risk of road casualties and contribute to the improvement of safety on the SRN, and would not comply with paragraph 4.66 of the [ER 3.3.471]. The ExA therefore recommended that the Secretary of State give very substantial weight against making the Order for this matter [ER 3.3.478].

52. The Secretary of State invites comments from the Applicant on the concerns raised by the relevant highways authorities on the lack of adequate modelling and safety concerns at this junction. The Secretary of State invites the Applicant to submit any further evidence in light of these concerns, and in particular requests that it provides NH with the signal specification used in its 'M1 J21 Modelling Note'.

Through this engagement, National Highways confirmed that *"As a proactive effort in trying to find a way forward, we concluded that LinSig could be considered acceptable, provided that a good level of validation is achieved"*.

2.5 In order to confirm that *"good level of validation"*, the Applicant submitted a number of Technical Notes to National Highways/AECOM. These are submitted as part of this response at Appendix 1. As a result of these Technical Notes and discussions with the Applicant, National Highways have now confirmed that the LinSig modelling of the junction and its validation is agreed. It should therefore be considered acceptable. This is recorded in the updated Statement of Common Ground with National Highways (19.7C). The Applicant therefore considers that the Secretary of State can conclude that the junction has been adequately modelled and that the outputs of that model provide a sound basis for assessment (inter alia) of the safety of the junction.

2.6 At ER 3.3.471 the ExA stated that due to its concerns about the adequacy of modelling *"the Applicant had not demonstrated that the Proposed Development would minimise the risk of road casualties and an overall improvement in the safety of the SRN"*.

2.7 The Applicant is not proposing to undertake any works to mitigate its impact on the junction. This is because current capacity constraints at junction 21 are longstanding and driven by the restricted width of the M1 underbridges on the circulatory carriageway. Improvements to address these constraints would be of a significant magnitude and require considerable Government investment. Whilst there is a clear aspiration from both Leicestershire County Council and National Highways to improve the junction, there is currently no scheme identified. It is acknowledged by all parties that the junction is over capacity as a result. In simple terms, the impact of the proposed development would be to put a minor amount of additional vehicles through the junction in the PM peak. This would add to existing queues.

2.8 To place this increase in context, even taking the worst case scenario, the total percentage impact at junction 21 attributable to the Development would only be 4.9%. This includes all

between 3,000 and 4,000 pcus depending on the peak period. This is a very significant omission.

This "missing" traffic increases to 16,000 pcus (total) if the M1 and M69 mainline flows are included. As acknowledged by the ExA during their unaccompanied site visit and confirmed by both LCC and National Highways during the examination these flows and associated queuing have a significant and severe impact on the operation of the junction [ER 3.3.465]. If the Applicant had modelled this junction using VISSIM, all of these flows would have been included within the model and the true impact of the proposed development on queuing, congestion and safety at this junction would have been known.

The M1 J21 Modelling Note submitted by the Applicant on 10th December 2024 includes queue length validation for the M69 approach to the junction. This suggests at Table 4 a maximum modelled queue length of 22.2 pcus in the pm peak. This is equivalent to a 140m queue length (marked below on by a white line close to the junction itself).

The screenshot below shows typical observed Google traffic in the pm peak (red line) with a modelled queue length of 140m on the M69 approach overlaid. This demonstrates that the Linsig model does not in any way replicate below observed conditions as experienced by the ExA.



The Applicant has modelled a sensitivity scenario which manually overlays the proposed development traffic onto the limited flows and movements considered by the Linsig model. LCC notes that this sensitivity scenario was only tested with the Lutterworth East mitigation scheme included (which cannot be guaranteed and only deals with the effects of that development as noted by the ExA [ER 3.3.316]). Other scenarios were not modelled with this scheme, meaning that the

		<p>projected development traffic on top of the without development scenario - i.e. it assumes that there will not be any diversion of existing traffic as predicted. This falls comfortably within the weekday variation values of 11.8 (variation for Motorways in 2023 between Monday and Friday for all vehicles is between indices of 99.9 Tuesday and 111 Friday) evidenced through DfT indices contained within TRA306 dataset¹</p> <p>2.9 As no works are proposed, the question of safety at the junction needs to consider the extent to which these minor additions to queues present an additional safety risk compared to the without development scenario. The Applicant has undertaken a highway safety assessment for the study area comprising a Personal Injury Collision Review and a future highway safety assessment using industry standard software COBALT. This assessment was included within the ES Transport and Traffic Chapter APP-117 (see 4.77-4.79) and the Transport Assessment included a detailed review of collisions (2015-2019) [REP3-157]. The Applicant also undertook a review of the most recent 5 year period (2018-2023) [REP4- 116]. This notes (see paragraph 3.5) that the position of the DfT was to compare collision rates and patterns to pre-pandemic data which was unaffected by lockdowns, hence the use of the more historic data by the Applicant as recommended. The additional model validation now agreed with National Highways does not change the outcome of this assessment, but rather should give the Secretary of State added confidence as to its robustness.</p> <p>2.10 ES Table 8.25 includes an assessment of junction 21 in the forecast year of 2036. This which shows a baseline calculation without development (WoD) of 6.2 annual average collisions per year and then the with development (WD) average annual collisions per year remain unchanged at 6.2 PICs. Therefore the With Development (WD) scenario does not present an increased safety risk over the Without Development (WoD) scenario.</p> <p>2.11 National Highways has indicated to the Applicant that it will further review and provide feedback on the COBALT assessment during the consultation period on this response, and the Applicant will continue to liaise with them in that regard.</p>	<p>results are not comparable. The Applicant appears to have “cherry picked” model scenarios for testing.</p> <p>As per the ExA report [ER 3.3.475], given the negative impacts of the development at this junction (scale currently unknown) a scheme of mitigation is required. The Applicant suggests in their submission letter that neither National Highways nor LCC have proposed a scheme of mitigation. It is not for either Highway Authority to identify a scheme of mitigation for a speculative private development. All the more so where the Applicant has not properly assessed the impacts, which necessarily precedes the design of a mitigation scheme. For clarity, LCC and National Highways made clear during the course of the Examination that they are simply seeking mitigation, not betterment.</p> <p>The Applicant has carried out a COBALT assessment of the junction. It is worthy of note that COBALT is a tool recommended for use by DfT in road scheme appraisals. Indeed, it is commonly used by National Highways to assess the economic benefits or otherwise of new scheme proposals. There is no scheme proposed by the Applicant as this junction, and therefore LCC questions the applicability of this tool.</p> <p>Furthermore, the Applicant has once again “cherry picked” the use of COBALT at various junctions on the SRN and LRN to suit. Moreover, the tool has been applied either to links or junctions, again to suit, to provide the Applicant with the most favourable narrative. The Applicant has not shared the detail behind this modelling throughout the course of the Examination.</p> <p>In this instance the outputs cannot be relied upon based on the inadequacies of the model assessment, including the selective use of the scenarios i.e. worst-case sensitivity test data not applied in COBALT (despite its limitations). The ExA concluded that the lack of an appropriate modelling assessment means that the risk to highway safety has not been demonstrated [ER 3.3.470; ER 3.3.471]. This remains the case. Furthermore, no reference has been made to safety impacts on the LRN.</p> <p>The Applicant’s further submissions have simply re-iterated and affirmed the conclusions reached by the Highway Authorities and confirmed by the ExA as correct, i.e. that the Applicant has chosen not to model the junction adequately, and therefore the proposed development impacts will increase delay and congestion, and fundamentally impact on safety at this junction and its mainline arms including M1, M69 and A5460. The full extent of impacts remains unknown as does the extent of any scheme of mitigation required. LCC conclude that the Applicant has not provided any further evidence that could justify changing the ExA’s recommendation to afford this matter very substantial weight against making the Order [ER 3.3.477; ER 3.3.478].</p>
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<p>Appendix 2 - Sapcote Technical Note</p>	<p>15. The Secretary of State is particularly concerned by the identified increase to the highway safety risk in Sapcote due to the increased likelihood of HGV's travelling in opposite directions coinciding through the village centre and, as a result, overrunning on to the footpaths used by pedestrians.</p> <p>63. LCC, Sapcote Parish Council, CPRE Leicestershire and the ExA raised significant highway safety concerns regarding Sapcote village centre that would occur as a result of the Proposed Development [ER 3.3.380, 3.3.390 and 3.3.519]. The Secretary of State notes that as a result of the Proposed Development, there would be an increase of 275 HGVs on the western side of the village centre and 262 HGVs on the eastern stretch, making it more likely that two HGV's travelling in opposite directions would coincide on the road running through the village [ER 3.3.525 - 3.3.526]. The main safety concern relates to there being insufficient room to pass and the overrunning of the narrow footways located on the north and south side of the B4669 by HGVs travelling through the village centre [ER 3.3.526]. She also notes that the bus stop located on the narrow footways results in the congregation of school children and other pedestrians, both waiting for the bus and walking throughout the village [ER 3.3.531]. The ExA considered that the combination of the numbers of pedestrians in the area and the increased likelihood of HGV's coinciding and therefore overrunning on to the footways, would result in an unacceptable highway safety risk [ER 3.3.533].</p> <p>64. The ExA considered placing weight limit restrictions as a mitigation, but was advised that this would not be possible with the route being classified as a 'B' road. The ExA also concluded that the weight limit restriction requirement may not be suitable if further consultation concluded that the restriction would be inappropriate, as this would negate any development consent, and because the modelling conducted did not include a scenario where HGVs were not able to travel through Sapcote [ER 3.3.535 - 3.3.538].</p> <p>65. The ExA concluded that due to unacceptable highway safety risk, it recommends that this matter weighs substantially against the Proposed Development [ER 3.5.533]. The Secretary of State is minded to agree with the ExA.</p>	<p>2.12 The Secretary of State invites the Applicant at paragraph 169 of the Letter, to provide a response and further evidence in response to the ExA's assessment of increased highway safety risk at Sapcote. The ExA considered that the proposals would lead to an unacceptable highway safety risk which could not be mitigated within the terms of the Application [ER3.3.539].</p> <p>2.13 The Applicant's detailed response to this matter is included in the Sapcote Highway Mitigation Technical Note at Appendix 2. In brief summary, this addresses what appears to be a misunderstanding by the ExA in relation to the proposed kerb realignments [ER3.3.522 – see paragraphs 5.2 – 5.4 of the Sapcote Highway Mitigation Technical Note] and what appears to be the ExA's failure to take into account the proposed mitigation when identifying what it understood to be the HGV traffic impact on the village [ER 3.3.525 – see paragraph 5.5 of the Sapcote Highway Mitigation Technical Note]. It also responds to the ExA's concerns by proposing some additional amendments and enhancements to the proposed works at Sapcote. These are explained in the Sapcote Highway Mitigation Technical Note and the overall package of works is described as the 'enhanced Sapcote scheme'. The additional enhancements comprise improvements to the pedestrian area outside the Co-Op store, delivery of the originally proposed zebra crossing, additional footway widening and the re-location of the bus stop from outside the Co-Op eastwards along the B4669. The Applicant has liaised with the Co-Op on these proposals and they have confirmed that the proposals will not affect their deliveries which are taken from the loading bay to the side of the store. Whilst the Applicant would highlight that the original proposal had been subject to road safety audit and considered to be safe, these further improvements are intended to respond to the ExA's conclusions and to provide the Secretary of State with the reassurance that has been sought, that the Proposed Development will ensure road safety in Sapcote, which the Applicant is wholly committed to.</p> <p>2.14 The enhanced Sapcote scheme includes numerous elements of the original scheme with further mitigation proposed to address the ExA's concerns in respect of 'future year' HGV traffic in</p>	<p>LCC strongly echoes the ExA and SoS concerns in respect of the increased highways safety risk in Sapcote as a consequence of the proposed development and the conclusion that it would be very substantially harmful to highway safety [ER 3.3.518].</p> <p>It is our professional opinion that the impact of the development cannot be mitigated within the extents of the red line boundary of the DCO. Moreover, this position has been confirmed as correct by analysis of the various iterations of proposals put forward by the Applicant.</p> <p>The proposed development will significantly increase traffic flows through the village, including a significant increase in HGV movements as a consequence of the introduction of south facing slip roads onto the M69, traffic diverting onto the Local Road Network away from M1 J21 [ER 3.3.538], together with any development HGV trips flouting the prohibited route.</p> <p>This concern is exacerbated at the heart of the village, in an area which many pedestrians including those that are vulnerable, can be found visiting the local shops, services, club, church and on route to school.</p> <p>Whilst the Applicant had previously proposed schemes of mitigation, none of these withstood the scrutiny of a Road Safety Audit (RSA). The Applicant has now termed the latest proposals as an "enhanced" scheme. LCC strongly disagrees that there is anything "enhanced" about this scheme, which it considers introduces additional safety concerns.</p> <p>Whilst LCC has provided a response to the Designers comments on the RSA, it is worthy of note that the Applicant did not follow RSA protocol as set out in the Leicestershire Highway Design Guide¹ which cross references Design Manual for Roads and Bridges GG 119 Road Safety Audit², i.e. LCC were not provided with a copy of the latest RSA brief, nor did they sign it off, nor were they invited to the RSA site visit.</p> <p>The "enhanced" scheme includes for limited footway widening on the south of Leicester Road. However, as a consequence it reduces the carriageway width. The scheme fails to provide any priority working. White lining funnels traffic head on into one another with 2 larger vehicles unable to pass. This is likely to result in a "stand-off", vehicles reversing, and/or vehicles mounting the widened footway. All of these scenarios provide a heightened risk to both vehicle drivers and pedestrians. Mitigating the risk to pedestrians with the inclusion of bollards in the footway would undermine the original intention of the scheme to provide increased footway provision and a safe harbourage for pedestrians. This is all in the context of the re-location of the existing bus stop from outside the Co-op store thus increasing the prevalence of pedestrians in this location, including vulnerable school children. It is worthy of note that the previous scheme proposed by the Applicant did include for priority working but was abandoned based on RSA comments.</p> <p>In the submitted Sapcote Technical Note the Applicant acknowledges that the existing lay-by outside of the Co-op is also used for deliveries to the store as well as</p>
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66. The Secretary of State notes that the ExA concluded that the unacceptable highway safety risk in the village of Sapcote could not be mitigated within the terms of the Application [ER 3.3.539]. However, she still invites comments from the Applicant on the ExA's conclusion on the highway safety risk at Sapcote.

Sapcote. The enhanced works are secured as follows:

2.14.1 The improvements to the pedestrian area outside the Co-Op store, delivery of the originally proposed zebra crossing and additional footway widening are all within the original Work No. 12 area and the amended proposals have been added to Work No. 12 described in Schedule 1 of the dDCO. The relevant Works Plan (Document 2.2G, Appendix 4) and Highway Plan (Document 2.4G, Appendix 4) have been updated to reflect the amendments and this is reflected in Schedule 15 of the dDCO.

2.14.2 There is a small part of the proposed 'enhanced' works which are outside of the Order limits. This is part of the proposed relocated bus stop. This is wholly within the existing highway boundary and can therefore be delivered through the conventional method of delivering works to a highway, by agreement with the local highway authority pursuant to s278 of the Highways Act 1980. These 'enhanced' works are secured by a new DCO requirement (requirement 5(4) of the Applicant's dDCO) to ensure that the Applicant enters into an agreement with the local highway authority pursuant to s278 of the Highways Act 1980 before commencing the development. The requirement refers to a s278 plan (new Document 2.33, Appendix 2C Part 2) which has been added to Schedule 15 of the dDCO as a certified document.

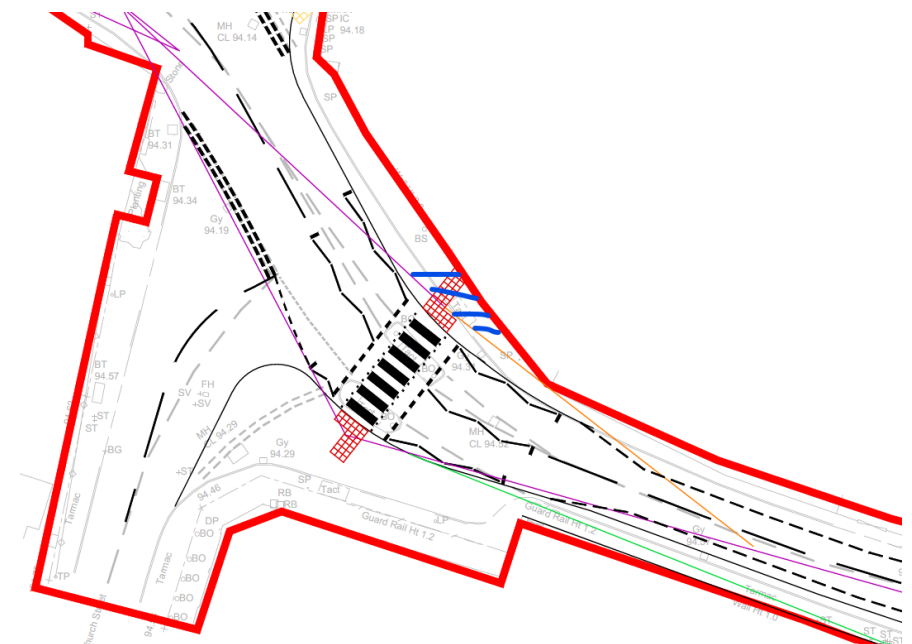
2.15 As explained in the Sapcote Highway Mitigation Technical Note, the Applicant has submitted the enhanced Sapcote scheme for stage 1 road safety audit with two independent auditors and all auditor recommendations have been agreed. The audit teams did not raise any fundamental safety concerns and the Applicant has either already implemented the auditor recommendations within the design appended to the Sapcote Highway Mitigation Technical Note or the audit teams agree that the minor design suggestions recommended through the audits can be achieved through the detailed design process pursuant to the protective provisions contained in the DCO (Part 3 of Schedule 13) (see paragraph 6.55 of the Sapcote Highway Mitigation Technical Note). Just prior to submission of this response the Applicant received LCC's comments on the stage 1 road safety audit. These

indiscriminate parking. The Applicant suggests in their submission letter that they have spoken with the Co-op who have confirmed that deliveries will use their rear access should the proposed development be approved and delivered. LCC can find no evidence of the Co-op position within the Applicants submission.

However, deliveries currently don't use the rear access from Church Street on the basis it is restricted in width and on-street parking takes place which restricts HGV movements. It is therefore unclear to LCC how this will and can be controlled, with an increased safety risk of delivery vehicles continuing to use the area in front of the store, mounting the proposed widened footway.

Highway safety concerns were also raised within the original RSA [REP8-025] in respect of forward visibility to the proposed zebra crossing. The Applicant has submitted a drawing [Sapcote enhanced scheme visibility to pedestrians] within Appendix C of the Technical Note attempting to show that vehicle to pedestrian visibility is not an issue. However, this is not the case.

In the extract below, the SoS will note that any pedestrian stood within the blue hatched area will not be visible to oncoming vehicles from the east or vice versa given the prevalence of an existing building line. There will realistically be pedestrians waiting in this area stepping back from the kerbline that will be over-ran by large vehicles, as a consequence of a number of pedestrians wishing to cross at any one time, or as a carer pushing a buggy or a wheelchair. Indeed, the Applicant has measured a setback of 1.2m contrary to the DfT guidance on Inclusive Mobility³ that identifies dimension requirements for vulnerable users in excess of this.



The Applicant has submitted a drawing [Sapcote enhanced scheme junction and oncoming vehicles visibility]. This drawing uses visibility splay requirements from the

		<p>comments are submitted at Appendix 2 Response Report Sapcote Enhanced Scheme (LCC). The Applicant will continue to liaise with LCC during the consultation period to this response but is of the view that their comments will be capable of satisfactory resolution either as part of the stage 2 safety audit process, as part of the detailed design approval under the protective provisions contained in Part 3 of Schedule 13 to the Order or through any s278 Agreement referred to in the previous paragraph.</p> <p>2.16 Whilst all of the Sapcote works can be delivered within the existing highway boundary, the Applicant has considered ownership of the subsoil beneath the highway of the land outside of the Order limits which will be subject to the s278 agreement so that those parties can be consulted following this submission along with all other interested parties who were consulted as part of the DCO Application and Examination. The relevant interested parties are identified by reference to a plan delineating their subsoil ownership in Appendix 2.</p> <p>2.17 The Applicant has considered the environmental impact of the 'enhanced' Sapcote works and includes updated Addenda to the Air Quality and Noise chapters of the Environmental Statement as part of this submission (document reference 6.4.2, Appendix 5 and document reference 6.4.3², Appendix 5 respectively). These assessments conclude that the enhanced works do not materially change the conclusions of the original Environmental Impact Assessment.</p>	<p>Leicestershire Highway Design Guide¹. Whilst these splays are accurate for a stationary vehicle e.g. waiting at a junction, they do not take account that vehicles approaching the proposed pedestrian crossing or indeed one another will be moving. The consequence of this in reality is reduced sight and stopping distances with their own inherent safety risks.</p> <p>LCC has also identified concerns with the Designers Response to the RSA in respect of deliverability of a Traffic Regulation Order outside of the Club to prevent on-street parking and increase visibility, and in respect of the proposed vehicle activated sign. In respect of the sign LCC fundamentally disagree with the Auditors recommendation and the Designers response. The details of the LCC response can be found within Appendix 2 of the Sapcote Technical Note.</p> <p>¹ Leicestershire Highway Design Guide available at: https://www.leicestershirehighwaydesignguide.uk/highway-development-management/road-safety-audit-policy</p> <p>² Design Manual for Roads and Bridges GG 119 Road Safety Audit available at: https://www.standardsforhighways.co.uk/search/710d4c33-0032-4dfb-8303-17aff1ce804b</p> <p>³DfT Inclusive Mobility available at: https://assets.publishing.service.gov.uk/media/61d32bb7d3bf7f1f72b5ffd2/inclusive-mobility-a-guide-to-best-practice-on-access-to-pedestrian-and-transport-infrastructure.pdf</p>
Appendix 3 - Narborough Level Crossing Report	<p>72. The Narborough Level Crossing is located near Narborough Station and facilitates the travel of vehicles and pedestrians along Station Road. The Applicant's approach was that as long as the level crossing was not closed for more than 45 minutes in any hour then there were no issues and NR confirmed that the rail industry generally, including HM Railway Inspectorate at the Office of Road and Rail (ORR), only considers it necessary to undertake a site assessment where the 45 minute criterion is breached [ER 3.3.553 – 3.3.554].</p> <p>73. The ExA accepted that each train journey would result in a 4 minute closure assuming it did not coincide with the closure associated with</p>	<p>2.29 At paragraph 75 of the Letter the Secretary of State invited the Applicant to comment on the concerns raised by the ExA regarding the effect on ambulatory impacted pedestrians at Narborough Level Crossing. Specifically, the Secretary of State referred to the conclusions at ER 3.3.561 and ER 5.4.10.</p> <p>2.30 At ER 3.3.561 the ExA noted: <i>"the additional closure time would result in delay for those who are not willing or those with ambulatory issues, including those pushing buggies, or cyclists, (except for those who are prepared to carry their bicycles over the bridge, which would then conflict with pedestrians)"</i></p>	<p>LCC agree with the conclusions reached by the ExA in respect of the additional barrier downtime disproportionately impacting those who are unable to use the existing steep stepped footbridge over the rail line at Narborough Station. Indeed, LCC made this case throughout the examination. Despite this, and despite the significant and detrimental impact on residents of Narborough and Littlethorpe (amongst others), the Applicant has failed to engage with LCC in respect of mitigation, both during and post examination.</p> <p>The mitigation proposed by the Applicant as documented is little more than an extension to the existing covered waiting area on the station platform. The Applicant is suggesting that those with ambulatory issues divert from their direct route, onto the station platform, wait whilst the barrier is lowered and trains pass, before returning to Station Road, and only then negotiating the level crossing at grade. All this in the hope that in the meantime the barrier hasn't been lowered again.</p>

	<p>another train path. The Applicant highlighted that in the worst-case scenario for barrier closure when trains make their journey, the Level Crossing would be closed for a maximum of 25 minutes and 22 seconds between 15:00 hours and 16:00 hours [ER 3.3.558]. Furthermore, the chance of overlapping between train paths, extending individual closures is also likely to increase, resulting in an increase in the chances that the traffic queue would not dissipate prior to the next closure of the crossing, resulting in queues and congestion worsening [ER 3.3.558 – 3.3.560]. The ExA concluded that due to the additional closure expected at the Level Crossing, the Secretary of State should give highway delays moderate weight against the Proposed Development [ER 3.3.562].</p> <p>74. The Secretary of State also notes the ExA concerns about additional closure time and that this would unfairly impact those with ambulatory issues as they would be unable to utilise the stepped bridge over the railway [ER 3.3.561]. She notes that the ExA concluded that this impact would not advance equality of opportunity for those with protected characteristics of age or disability defined by the Equality Act [ER 3.3.561 and 5.4.10].</p> <p>75. The Secretary of State invites comments from the Applicant on the concerns raised by the ExA on the impact on ambulatory impacted pedestrians at the Level Crossing.</p>	<p>2.31 Before concluding at ER 5.4.10: <i>“The additional delays at Narborough would, to our mind, not advance equality of opportunity for those with the protected characteristics of age or disability. This is because the effects of the additional delays are most likely to be on those who would be less able to cross the existing bridge, that is those with ambulatory issues. This applies to those who are disabled, and for the youngest and the oldest in society, the protected characteristic of age”</i></p> <p>2.32 The Applicant notes that the Secretary of State at paragraph 165 of the Letter, when referring to her “minded to” conclusions, only refers to the protected characteristic of disability and not that of age. It is not clear to the Applicant whether this omission was intended, but it submits that it is entirely correct. The ExA’s reference to those pushing buggies and cyclists exemplifies that any impact would affect all ages, and those not old enough to not be able to climb and descend stairs will certainly be accompanied and likely to either be carried or in a buggy. Accordingly, the Applicant’s response focusses upon the application of the PSED in relation to those with an ambulatory related disability preventing them from using the footbridge. Should the Secretary of State disagree however, the proposals outlined below would equally address the issue with respect to the protected characteristic of age.</p> <p>2.33 As noted in the legal analysis above, to engage with the PSED requires the decision maker to formulate an understanding of the nature of the inequality and the extent of any related impact and then to balance that against any countervailing factors. In terms of the impact side of the balance, this requires the Secretary of State to pose the question <i>“to what extent would those with disabilities be affected by the additional barrier down time arising as a result of HNRFI trains?”</i>. This in turn requires a detailed understanding of the evidence submitted by the Applicant and accepted by the ExA as to the paths available to HNRFI trains, the additional down time that results from those paths, and how that might interact existing train paths to elongate any down time.</p> <p>2.34 These details are explained in the Hinckley NRFI Narborough Level Crossing Report enclosed at Appendix 3 which, in summary, notes:</p>	<p>Moreover, if it were of any assistance, it could only assist those caught on the northern side of the downed barriers. It would not assist those to the south of the barriers.</p> <p>Furthermore, it is unclear how by providing additional information to train passengers on the platform as suggested by the Applicant, this will assist those with ambulatory issues seeking to cross the level crossing at grade.</p> <p>Based on the Applicants own evidence, wait time at the level crossing will be anywhere between 4 and 7 minutes depending on train services. The Applicant appears to have investigated delivery of an accessible bridge but has ruled this out on the basis crossing time of this bridge would be in the region of 2.5 minutes. Therefore, the Applicant suggests its simply not worth delivering. LCC strongly disagrees that this mitigation is not worthy of delivery to provide assistance to those disproportionately impacted by the proposed development and has been ruled out by the Applicant on the basis of financial cost with little regard to equality of opportunity.</p> <p>It is therefore fair to conclude that the mitigation proposed, is not mitigation at all, and that by its very nature serves to disproportionately further impact those with ambulatory issues.</p>
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		<p>Narborough Station which would also be accessible by those waiting to cross the level crossing who are unable to use the existing footbridge. In addition, it will also fund improvements to the Customer Information Service to provide information to those seeking to catch trains. These arrangements are secured through a Supplemental Framework Agreement with Network Rail confirmation of which is evidenced through the correspondence within the Narborough Level Crossing Report at Appendix 3. This will assist in minimising any disadvantage which those suffering with ambulatory issues may suffer as a result of the short periods of downtime due to the passing of HNRFI trains.</p> <p>2.36 The extent of any disadvantage experienced by those with disabilities as a result of additional downtime at Narborough Level Crossing due to HNRFI trains has therefore been addressed as far as reasonably practicable and consequently, the Applicant has considered the duty to “have regard” to those effects in formulating its proposals in compliance with the PSED. When the substantial countervailing factors in the form of the benefits of this nationally significant infrastructure project are taken into account it is plain that they substantially outweigh any limited residual disadvantage that may be experienced by those with disabilities as a result.</p>	
Appendix 4 - Aston Firs Technical Note	<p>16. The Secretary of State notes that the ExA also concluded that the Proposed Development would lead to a harmful effect on the living conditions of the occupiers of the Aston Firs Travellers site due to the proximity of the proposed acoustic barrier.</p>	<p>2.48 In response to the Letter the Applicant has undertaken further work to reduce the visual impact upon the residents of Aston Firs arising from the 6m acoustic barrier whilst maintaining a suitable level of noise attenuation, safe road alignment, and amenity for users of public rights of way.</p> <p>2.49 This has resulted in the introduction of a commitment to a buffer of at least 12m between Aston Firs and the southern section of the barrier and a reduction in its height to a maximum of 3m (new DCO requirement 4(4)(b) which refers to Figure 10.10A where the buffer and heights⁴ are identified). Further details of this design evolution are set out in the Applicant’s accompanying submission Hinckley NRFI Aston Firs Technical Note at Appendix 4 which further explains the measures undertaken and the updates to the application documents, plans and to the DCO to give effect to these</p>	<p>The Applicant is proposing to re-locate the acoustic barrier adjacent to the A47 link road within the extents of public highway. LCC is content with this proposal subject to detailed design and revised wording within the DCO that ensures that all liability for this proposed structure, including its ongoing maintenance, is accepted by the Applicant in perpetuity. LCC understands that the Applicant accepts this position.</p>

		<p>commitments and to secure an improved level of amenity for the residents of Aston Firs, which the Applicant believes satisfactorily addresses the concerns raised by the ExA and the Secretary of State. The Applicant has also added a small bridleway link in response to a comment from LCC that bridleway users may be inclined to follow a desire line across a grassed area, so that now instead there is a formal bridleway link from the Pegasus crossing to the realigned bridleway.</p> <p>2.50 Furthermore, with respect to the duty under s149(1)(b) Equality Act, whilst it is not possible to completely eliminate all impacts on the residents of Aston Firs, the Applicant has through the measures outlined, sought to minimise the disadvantages suffered by them to within established standards and acceptable levels of amenity. In reaching this position, the Applicant has been in further contact with the Service Manager in the Multi-Agency Travellers Unit and the Aston Firs Site Manager at Leicestershire County Council who have endorsed the positive effect of the Applicant's evolved design in addressing the issues raised. These responses were received by email and are enclosed at Appendix 4 (F) (Aston Firs Gypsy and Traveller Liaison Officers and Residents Response). In responding in this way, the Applicant has demonstrated that it has considered the Secretary of State's duty to "have regard" imposed under that section, taken such measures as are reasonable further to that duty, and that countervailing measures outweigh the limited residual effect. There remains scope for further design refinement as part of the details to be submitted under requirement 4.</p>	
<p>Appendix 6: Sustainable Transport Strategy (document reference 6.2.8.1F)</p> <p>Appendix 6: Site Wide Framework Travel Plan (document reference 6.2.8.2E)</p>	<p>33. The Applicant's Sustainable Travel Strategy, which was updated following discussions during the Examination, sets out its strategy for public transport and active travel and analyses the opportunity to maximize the use of sustainable modes of transport to and from the Application site [ER 3.3.66 – 3.3.74].</p> <p>34. The ExA notes that concerns were raised by a number of interested parties. National Highways (NH) criticised the lack of emphasis on walking as a sustainable travel model, although the ExA considered it extremely unlikely that employees would walk to the site due to the distances of the</p>	<p>3.1 The ExA's conclusions [ER 3.3.425] in relation to the Applicant's Sustainable Transport Strategy ("STS"), upon which the Secretary of State invites comments from the Applicant (paragraphs 33 – 37 and 170) were that:</p> <p>3.1.1 the mode-change targets were insufficiently challenging;</p> <p>3.1.2 the subsidy for employees using the Demand Response Transport ("DRT") service should be as for the existing bus services (a free six-month bus pass);and</p>	<p>The Applicant has amended the Sustainable Transport Strategy and Site Wide Framework Travel Plan to increase modal shift over a 10-year period from 75% to 55% of car drivers (previously 60%), with a commitment to reduce single car occupancy to 40% (previously 60%) in response to comments made by the ExA and SoS.</p> <p>However, whilst ambitious targets are welcomed, they are not evidenced or supported by an increase in incentives for vehicle drivers to make the switch. Furthermore, no detailed and enforceable penalties have been identified should the targets not be met. The only interventions mentioned in the revised Strategy are promotional activities and travel clinics. The increase in targets is fanciful and simply plays lip service to the ExA's recommendation.</p> <p>The ExA and SoS also identified the lack of offer of a six-month bus pass to employees accessing the Proposed Development using Demand Responsive Transport was a</p>

	<p>site from centres of population (apart from Elmesthorpe) [ER 3.3.407]. Blaby District Council (BDC) considered the Applicant's aim to reduce single car occupation from 75% to 60% over a 10-year period to be insufficiently challenging [ER 3.3.408]. The ExA also considered the proposed target for single-car occupation, which aims to improve current levels, would only relate to the vicinity of the Application site rather than where the employees live. The ExA concluded that this would make the target less challenging to achieve. The Secretary of State is aware that when challenged on this point, the ExA was of the view that the Applicant did not appropriately address the concerns raised [ER 3.3.409]. The ExA was also concerned that the Design Code permitting decked parking did little to encourage the use of alternative modes [ER 3.3.410].</p> <p>35. The Secretary of State notes that the ExA considers that, for those reliant on Demand Responsive Transport, the lack of an equivalent to the six-month bus pass for commercial services given to employees in their travel subsidy, would result in a significant deficiency in the Sustainable Travel Strategy [ER 3.3.412]. She also notes that the ExA considered cycleway provision and cycle infrastructure to be adequate [ER 3.3.413 – 3.3.415].</p> <p>37. The ExA set out at ER 7.4.105-7.4.107 how the Applicant could change the Sustainable Travel Strategy in order to mitigate against the impacts set out above [ER 3.3.427]. The Secretary of State invites comments from the Applicant on the revised Sustainable Transport Strategy proposed by the ExA.</p>	<p>3.1.3 the Applicant did not investigate sustainable travel modes related to the provision of a rail passenger station sufficiently.</p> <p>3.2 The ExA considered that the Applicant's STS could be amended to deal with the first two conclusions above and that, as the ExA's perceived failure to investigate the provision of a rail passenger station cannot be mitigated as part of the Application, with the ExA's proposed amendments to the STS, little harmful weight should be applied in the planning balance [ER.3.3.427]. The Applicant considers the ExA's conclusions in respect of a rail passenger station were unsound, as set out in paragraphs 3.15-36 below.</p> <p>3.3 The ExA suggested that the STS should be amended to deal with two specific measures and proposed that the DCO requirement be amended to ensure a revised version is submitted to the relevant planning authority for approval to include those specific measures as noted in the ExA's proposed draft requirement and which must accord with the document submitted with the Application. The ExA then suggested that the Application version is removed as a certified document [ER 7.4.106 and ER Table 11].</p> <p>3.4 The specific measures the ExA required to be dealt with [ER Table 11, ExA's proposed amendments to requirement 9] were:</p> <p>3.4.1 the inclusion of a six-month free bus pass for employees using the DRT service; and</p> <p>3.4.2 a more ambitious target for the reduction of single car occupancy.</p> <p>3.5 It appears from ER 3.3.408 and 3.3.425 that the ExA may not have fully understood that single occupancy car trips were not reported in the Applicant's original STS because the Applicant used the DfT's standard Journey to Work modes which do not differentiate between single occupancy drivers and car drivers who also car share.</p> <p>3.6 In order to address this, the Applicant has amended the STS to differentiate more clearly</p>	<p>deficiency of the Strategy. This is a matter that LCC have also consistently raised with the Applicant over a protracted period of time. LCC welcome the expansion of this offer but remain unclear as to how expanding this offer could have such a significant impact on increasing modal shift.</p> <p>LCC also notes the inclusion of a southeast Leicester bus service in the updated Strategy. This is lacking significant details including routeing and timetable. Furthermore, the impact on existing commercial and supported bus services has not been assessed. Again, this proposal is not backed up by any details evidencing the employee draw from this area of the City, and to what extent this would contribute to the ambitious uplifted modal shift target. Appendix 7 which claims to demonstrate potential patronage simply makes no sense. Journey times from this area of the City are unknown and therefore its not clear that this service would be an attractive alternative to the private car.</p> <p>The Applicant proposes that the active travel 10-year target increases from 4 to 8%. LCC question how this can be achieved given the limited walking and cycling provision proposed and the Applicants suggestion that walking is not an option to this site.</p> <p>This could have been acceptable should the Applicant have elected to progress the Strategy on the basis of the ExA's suggestion i.e. that this was a Framework document to be followed by a comprehensive detailed document dealt with by way of a suitably worded Requirement. The Applicant is not in agreement with this approach, and hence the Strategy with its minimal changes and its arbitrary targets and speculative interventions continues to be inadequate.</p>
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		<p>between single occupancy car trips and car sharing. This is because car sharing for a development of this nature will be an important tool in reducing overall vehicle use to and from the site.</p> <p>3.7 The amended STS now includes the specific measures noted by the ExA (Document 6.2.8.1H). The amended commitments are outlined in Table 1 of the STS. The Applicant commits to a modal shift target from 66% to 40% of single occupancy vehicles in 10 years (Table 1, item 1) and the provision of a free six-month DRT pass for employees from first occupation (Table 1, item 7).</p> <p>3.8 The original modal shift target was from 75% to 60% over 10 years. This has been changed to a single occupancy vehicle target of 66% to 40%. As stated above, the Applicant's original target figures were based on Census data reporting of travel to work modes which reports car trips as 'car drivers' and 'passengers' only. It does not differentiate between single occupancy trips and car sharers who drive, and a number of the 'car drivers' are expected to be car sharers and not only single occupancy trips – i.e. 'car driver' covers more than single occupancy. The new, more ambitious, target specifically addresses the single occupancy concern of the ExA [ER 3.3.408 – 3.3.409].</p> <p>3.9 In addition to the two specific measures raised by the ExA, the Applicant has also added an additional private bus service for which there will also be a free six-month bus pass. This service is to connect the south east of Leicester City area to the site, where sustainable transport journey times are above 60 minutes for potential employees in that area. This additional service will cover key shift changeover times. The expected catchment for employees as outlined in the STS shows a significant draw from Leicester. The service will be available from occupation and usage will be monitored and reviewed by the Site Wide Travel Plan Coordinator and reported to the Travel Plan Steering Group. The Framework Site Wide Travel Plan has also been amended to reflect this new service (Document 6.2.8.2E). It is considered that this additional service also reduces the impact at M1 Junction 21 by reducing reliance on car journeys through the junction.</p> <p>3.10 The Applicant's amended STS secures those extra measures identified by the ExA and the</p>	
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		<p>reason for the ExA's recommended amended requirement has been superseded as a result. The Applicant's proposed requirement secures compliance with the now updated Sustainable Transport Strategy. The Applicant has amended Schedule 15 of the DCO to reflect this updated version and the updated Framework Site Wide Travel Plan.</p> <p>3.11 This approach ensures that the Secretary of State can be satisfied that the ExA's specific measures are secured, but also provides certainty to the Applicant as to the measures to be provided and avoids the real risk of prolonged post-consent debate with the local authorities as to what measures ought to be required and/or a potential appeal in seeking to discharge the DCO requirement. This allows delivery of this nationally significant infrastructure project without undue delay.</p> <p>3.12 With regard to the ExA's commentary on decked parking [ER 3.3.410 and 7.4.107], the Secretary of State's attention is drawn to the Design Code, which is secured by DCO requirement 4. This specifically ensures that <i>"the amount of car parking on each plot will be determined by the local authority standards"</i> – see bullet point 3 of paragraph 9.2 (document reference 13.1D). The provision of decked parking does not therefore relate to or affect the number of parking spaces to be provided, rather, it only relates to the layout in which the parking is to be provided, to respond to occupier requirements. Decked, or multi-storey, parking could, for example, be a more efficient use of space on a plot. The number of parking spaces is not linked to the layout for its provision, it is linked to the third bullet which confirms that the amount will be determined by the authority's standards.</p> <p>3.13 The Applicant therefore does not consider that the ExA's proposed amendment to the Detailed Design requirement (ER 7.4.107 and ER Table 11, requirement 6 of the ExA's recommended DCO ("rDCO")) is appropriate or necessary. Indeed, it appears to indicate that the ExA's recommendation is based on a misunderstanding of the material before the Examination.</p> <p>3.14 The ExA concluded that the inclusion of</p>	
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		<p>the additional measures which are now contained within the Sustainable Transport Strategy and secured by DCO requirement, would reduce the weight this matter should be given in the planning balance to only little adverse weight [ER 3.3.427 and ER 5.2.9]. The Applicant considers that having addressed the matters raised by the ExA, limited positive weight should be given to this matter, as noted in the table following paragraph 5.44 below.</p>	
<p>Appendix 7: Rail Passenger Station Feasibility</p>	<p>36. On rail passenger travel, the ExA concluded that the Applicant's lack of investigation into the provision of a rail passenger station at or near the site or the re-opening of Elmeathorpe station shows that a sustainable travel option was not explored and also that the Applicant failed to consider Policy 5 of HBBC's Core Strategy Plan [ER 3.3.424]. The Secretary of State also notes that the ExA placed little weight on NR's evidence which confirmed that a passenger station was not needed, as the assessment of the needs case was, in the ExA's view, done on the basis of current demand and did not take account of the additional demand from employees at the Proposed Development [ER 3.3.418]. The ExA recorded that it was unable to orally question NR and that NR were unable to provide a deputy to attend the oral hearing, and that this hindered its examination of this part of the Proposed Development [ER 3.3.422]. The ExA also considered that NR's answers seemed to lack rigour and did not show an objective analysis [ER 3.3.423]. The ExA considers that due to the deficiencies in the Sustainable Travel Strategy, the Proposed Development would not accord with paragraph 5.211 of the NPSNN and that it has not been demonstrated that this is in a location that can be made sustainable (see paragraph 12 of Circular 01/2022). The ExA therefore recommended that this should carry substantial weight against the Proposed Development [ER 3.3.426].</p>	<p>3.15 This section addresses the approach to a specific local planning policy that is addressed in the ExA's Report in relation to the issue of the provision of sustainable transport. The ExA stated [ER 3.3.424] that the Applicant has failed to give due consideration to Policy 5 of the Hinckley and Bosworth Borough Council (HBBC) Core Strategy (CS). Policy 5 identifies 'transport interventions' as detailed in the Hinckley Core Strategy Transport Review 2007. In addition to these measures the Policy states: <i>'The Council will support the re-opening of the Elmeathorpe passenger railway station to serve Earl Shilton and Barwell'</i></p> <p>3.16 The Applicant notes that the Local Impact Report prepared by HBBC [REP1-138] does not suggest that there would be any adverse impact to the achievement of the objectives of Policy 5 arising from HNRFI. That is important, because this part of the policy does not set development control tests, and in any event the CS does not and could not set policy tests for the determination of applications for development consent for NSIPs under the Planning Act 2008. Local Plans do not and cannot set such tests, which Parliament has decided is exclusively the role of National Policy Statements under the Act. That is reflected in the process of preparation and scrutiny of Local Plans, whose soundness is not tested by reference to their suitability for guiding development control decisions for nationally significant infrastructure projects.</p> <p>3.17 The Applicant also highlights to the Secretary of State three applications for development at the sustainable urban extensions (SUE) at Earl Shilton and Barwell that have been considered by the Planning Committee at HBBC:</p> <p>3.17.1 Firstly, 21/01511/OUT (SUE at Earl Shilton for up to 1000 dwellings and up to 5.3 hectares for employment uses) the planning officer's report for which is attached at Appendix</p>	<p>LCC concur with the ExA that the Sustainable Transport Strategy submitted by the Applicant during the examination was deficient. As set out in this document this remains the case.</p> <p>Network Rail have confirmed at paragraph 4.7 that "there is no obstacle to constructing a passenger station to serve HNRFI based on initial consideration of engineering and topographical issues". This is contrary to the position put forward by the Applicant during the course of the examination.</p> <p>LCC notes Network Rail's conclusion at paragraph 4.17 that "there is insufficient demand for commute to work by rail to justify a new HNRFI passenger station". This assessment, or that of Cross Country Trains, does not appear to take account of future planned growth in the area in addition to the proposed development.</p> <p>Furthermore, it remains unclear to LCC if the delivery of the proposed development would preclude any possibility of the opening of a passenger rail station within the vicinity of the site given the siting of a rail freight terminal and associated implications for capacity on the line.</p>

		<p>7A; and</p> <p>3.17.2 Secondly, 23/00330/OUT (SUE at Earl Shilton for up to 500 dwellings) the planning officer's report for which is attached at Appendix 7B; and</p> <p>3.17.3 Finally, 12/00295/OUT (application for up to 2500 dwellings at the Barwell SUE) the planning officer's report for which is attached at Appendix 7C</p> <p>3.18 These officers' reports are relevant to the determination of the current application for development consent in so far as they reveal the approach taken to Policy 5 by the local planning authority (the author of the policy) in the determination of planning applications at the two SUEs in circumstances where Policy 5 supports the reopening of the passenger station at Elmesthorpe to serve these developments. None of the applications proposed a re-opening of the station.</p> <p>3.19 In relation to 21/01511/OUT⁵, the planning officer's report to the Planning Committee makes reference to Policy 5. No issue was taken against the SUE application on the basis that there was perceived to be any conflict with Policy 5.</p> <p>3.20 Similarly in relation to 23/00330/OUT⁶, no issue was taken in reporting the planning application to the Planning Committee, and no conflict with Policy 5 was identified.</p> <p>3.21 Finally, although 12/00295/OUT⁷ was submitted in 2012 it has yet to be formally determined. The application was reported to the planning committee on the 23 April 2013. Again, no reference was made to the proposal being in conflict with Policy 5.</p> <p>3.22 Following the allocation of the SUEs in its CS, HBBC prepared the Earl Shilton and Barwell Area Action Plan (adopted September 2014). The only reference to a railway station within the AAP is to Hinckley Rail Station in the context of the proposal for an extension of bus services 'to provide' linkages between the two SUEs and the existing settlements.</p> <p>3.23 The Inspector's Report into the examination of the Earl Shilton and Barwell AAP</p>	
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		<p>states (paragraph 78):<i>Section 4 of the STA provides detail on the proposed bus strategy and that is summarised in paragraphs 4.15-4.18 of the AAP headed 'Public Transport' although reference is made in paragraph 4.25 to it being a Public Transport Strategy. The Council's suggested amendments (PCs 37 and 48) to those paragraphs are for clarification of the purposes of the bus strategy. This involves enhancements and re-routing of the existing services and recognition that some subsidies will be required in the early years of the developments funded by s106 contributions (included in the Infrastructure Schedule). Despite the emphasis given in Core Strategy Policy 5 to the particular need to improve links to Hinckley Railway Station there is no reference to that either in the STA or in the AAP. As nothing has been done to progress the re-opening of Elmesthorpe station on the Birmingham-Nuneaton- Leicester railway line the need for improved connectivity between the SUEs and Hinckley station is a matter which requires further consideration by the County Council as a transport authority. It is not so critical as to render the AAP unsound but would enhance the sustainability of the proposals.'</i> The Local Impact Report submitted by Leicestershire County Council ("LCC") on the HNRFI [REP1-154] does not suggest any conflict with HBBC CS Policy 5 when addressing 'Rail impacts and the LRN'.</p> <p>3.24 Thus it is plain, both from the terms of Policy 5 itself, and from HBBC's decision taking on the SUEs, that this Local Plan policy does not impose a policy requirement for those proposing development to include within their applications measures designed to achieve or even to promote the reopening of the Elmesthorpe Passenger Station. That is the case for development proposals that fall to be determined under the Town and Country Planning Act 1990 by reference to the Local Plan. It applies with even more force to nationally significant infrastructure proposals to which the Local Plan policies do not directly apply. Policy 5 only amounts to a policy aspiration of the Council. The NPS is the primary policy basis for making decisions on applications for development consent, and there is no specific policy requirement in the NPS (or even the Local Plan) for applicants promoting a SRFI to make provision for or investigate provision of a passenger station.</p> <p>3.25 The Government acknowledges (NPS</p>	
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		<p>Footnote 61) that <i>'investment decisions on strategic rail freight interchanges will be made in the context of a commercial framework'</i>. Realistically the delivery and operation of a passenger station could not be made in a commercial framework, as the revenue and operational costs would fall outside of the control of the Applicant.</p> <p>3.26 Furthermore, the Applicant approached Network Rail, the national rail infrastructure owner including passenger railway stations in response to comments made during the statutory consultation. In response to the issue having been raised in the examination of the Applicant's proposal for a SRFI, Network Rail made clear its position that a passenger station at Elvesthorpe would not be supported [REP5-087 section 9.3].</p> <p>3.27 In response to the ExA's subsequent Rule 17 request [PD-016], Network Rail commented on the business case implications for a station in the vicinity of the rail freight terminal [REP7-090]. Network Rail advised that the additional hourly passenger service being proposed was a fast service between Birmingham Coventry and Leicester and would not be stopping at intermediate stops. For such a service a station at this location would offer no benefits.</p> <p>3.28 In addition, in that response, Network Rail also set out the view of the Train Operating Company, Cross Country Trains on the business case: <i>"Cross Country Trains have confirmed that inclusion of an additional station call in their Birmingham to Leicester stopping service 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"</i>.</p> <p>3.29 In light of the policy position as set out above, and the clearly expressed views of Network Rail (the national rail infrastructure owner of passenger railway stations) and Cross Country Trains (the relevant Train Operating Company), it would be both inaccurate and unfair for the Applicant to be criticised for failing to explore the provision of a</p>	
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		<p>passenger railway station 'at or near the site' (ER 3.3.424). The Applicant plainly did explore with Network Rail the provision of a passenger railway station, but its position on this issue was made very clear throughout the process. The Applicant similarly cannot fairly be criticised for not itself promoting the development of a passenger station in circumstances where Network Rail does not consider this to be either necessary or desirable, and its own assessment shows that this is not necessary to make the proposed development reasonably accessible by sustainable modes of transport.</p> <p>3.30 The ExA's conclusion that the Proposed Development would be contrary to NPS paragraph 5.211 (ER 3.3.426) was neither reasonable nor justifiable on the evidence. In the Statement of Common Ground with HBBC [REP8-021], the Council did not identify Policy 5 as being relevant to the consideration of impacts on the local transport network (under matters not agreed – other matters arising from the policy provisions of the development plan). The Applicant has given due consideration to the transport impacts of the development through a transport assessment and has provided details of proposed measures to improve access by public transport and sustainable modes that are appropriate to the location of HNRFI.</p> <p>3.31 The ExA refer to paragraph 5.278 of the draft NPSNN and contend that the Applicant has <i>'not maximised opportunities to allow journeys associated with the development to be undertaken by sustainable modes'</i>. Paragraph 5.278 draft NPSNN states <i>'consideration should also be given to whether the applicant has maximised opportunities to allow for journeys associated with the development to be undertaken via sustainable modes'</i>. The Applicant has considered with Network Rail whether a passenger railway station would be supported at Elmesthorpe. Network Rail does not support such provision and the Applicant could not provide a passenger railway station within a commercial framework. In those circumstances, neither the absence of a proposal by the Applicant to develop such a station nor the extent to which the potential for such a development has been explored by the applicant, provide any proper basis for concluding that there is a conflict with paragraph 5.278 of the draft NPSNN. Any such conclusion</p>	
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		<p>would be unsupported by the relevant policy and the evidence, and hence manifestly unreasonable.</p> <p>3.32 Following the publication of the ExA’s Report by the Secretary of State, the Applicant has approached Network Rail to consider this issue again. In response, Network Rail has provided a further report titled <i>Hinckley National Rail Freight Interchange - Evaluation of the Viability of Providing a New Passenger Station to Serve the Proposed Development and Local Community Travel Needs</i>. The Applicant has appended a copy of this Report at Appendix 7 with Network Rail’s permission, and understands that Network Rail has separately submitted a copy of this report to the Secretary of State under cover of a letter dated 10th December. The Applicant highlights that Network Rail is more than simply the <i>‘acknowledged expert in the area’</i> [ER 3.3.423]. Network Rail holds the licence from the Office of the Rail Regulator to operate, manage and invest in the railway and of course, has to agree where new passenger stations may be provided on the rail network with the Department for Transport.</p> <p>3.33 The ExA state at ER 3.3.427’.....<i>as the failure to investigate the provision of a rail passenger station cannot be mitigated within this Application, we consider that even if this were to happen that little harmful weight should still be applied in the final planning balance.</i></p> <p>3.34 It is considered that more appropriately the provisions of Policy 5 relating to the HBBC’s support for the re-opening of the railway station at Elmesthorpe should be a neutral consideration in the planning balance.</p> <p>3.35 Since the receipt of the ExA’s Report and the Letter, further provision has been made for sustainable travel in response to the considerations raised at ER 3.3.425 as detailed above and which the Applicant submits are more appropriate to address the issues raised.</p>	
<p>Appendix 8: HGV Route Management Plan and Strategy (document reference 17.4F)</p> <p>Appendix 9: Village</p>	<p>38. The HGV Route and Management Plan (“HGVRP”) aims to develop a strategy and plan to promote and manage routes for the HGVs associated with the Proposed Development during the operational phase and identifies “advisory HGV routes” and “prohibited HGV routes” [ER 3.3.76 – 3.3.77]. In addition, HGVs would be</p>	<p>3.36 The ExA raised three concerns with the Applicant’s HGV Route Management Plan and Strategy (“HGVRP”) [ER 3.3.435 – 3.3.448] and proposed that the relevant DCO requirement be amended to ensure a revised version is submitted to the relevant planning authority for approval to address those three concerns. The ExA then</p>	<p>LCC welcomes the removal of triggers meaning that all occupiers of the warehousing and rail freight terminal will be subject to a financial penalty immediately and each time a HNRFI HGV is recorded on a prohibited route unless a mitigating circumstance applies as described in the document.</p> <p>LCC also welcomes the penalty for each breach being fixed at £1,000 and subject to indexation.</p>

<p>Example Highways Mitigations Cost Plan</p>	<p>“discouraged” from using local roads [ER 3.3.82]. Enforcement of prohibited HGV routes would utilise ANPR cameras and the Applicant proposed that breaches would involve three stages of management interventions: Firstly, management interventions to confirm that the occupier, its staff and suppliers are actively seeking to comply with the HGVRP. Secondly, there would be financial penalties for those considered to be ‘persistently breach’, with a maximum of £1,000 per breach (index linked). Thirdly, should there be over 10 HGVs one way on any of the prohibited routes on an average day then the HGVRP would be considered to have failed. In this event, an assessment would be undertaken making suggestions for further measures and/ or revision of the Strategy. Individual Parish Councils would be consulted on mitigation measures proposed for their villages [ER 3.3.89 – 3.3.93]. The Secretary of State notes that the ExA agreed with BDC that the proposed financial penalty of a ‘maximum’ of £1,000 for those who breach the HGVRP is not a significant deterrent and that it agreed with BDC’s proposal that all fines should be set at a fixed amount of £1,000 instead [ER 3.3.436].</p> <p>39. The ExA considered that while the proposed fund of £200,000 to pay for additional measures to discourage HGV’s routing via any of the prohibited routes was not secured via a Planning Obligation that it should follow and its acceptability be assessed against the same policy presumptions as one [ER 3.3.90 and 3.3.438]. The ExA concluded that as it was unclear how the sum was derived and whether it is reasonably relative to the scale and effects of the Proposed Development, it should not be taken into account [ER 3.3.438].</p> <p>40. The Secretary of State notes that a number of concerns were raised around the daily breach thresholds of the HGVRP. The Applicant proposed that over 10 HGVs one way per day on any of the prohibited routes would trigger an escalated assessment of the HGVRP, in which the thresholds would apply to the whole 850,000 sqm development and stages 1 and 2 would be divided proportionately between individual occupiers based on net plot area</p>	<p>suggested that the Application version is removed as a certified document [ER 7.4.128]. The Secretary of State has invited comments from the Applicant on this matter (paragraphs 38 – 41 and 170 of the Letter).</p> <p>3.37 The three measures the ExA required to be dealt with in an updated HGVRP and proposed to be secured through the ExA’s proposed amended requirement 18 [ER Table 11] were:</p> <p>3.37.1 triggers based on a proportional approach to the overall floorspace and the use of the rail freight terminal;</p> <p>3.37.2 fixed financial penalties; and</p> <p>3.37.3 revised measures to deliver further mitigation.</p> <p>3.38 The Applicant has amended the HGVRP in the manner described below to address these three concerns (Document 17.4F).</p> <p>3.38.1 Triggers: the Applicant has removed the triggers so that now all occupiers of the warehousing and rail freight terminal will be subject to a financial penalty immediately and each time a HNRFI HGV is recorded on a prohibited route unless a mitigating circumstance applies as described in the document. The removal of the triggers addresses the ExA’s concerns at ER 3.3.435 that the Applicant’s original proposal would result in the triggers being less likely to be reached during the first phase of the development, reducing the likelihood of intervention and leading to undesirable travel patterns in those initial phases.</p> <p>3.38.2 Penalties: the ExA agreed with Blaby District Council that the financial penalties for breach should be set at a fixed amount of £1,000 subject to indexation [ER3.3.436]. The amended HGVRP now sets the penalty for each breach at £1,000, subject to indexation.</p> <p>3.38.3 Revised measures to deliver further mitigation: the Applicant’s originally proposed fund of £200,000 is now secured by planning obligation rather than the HGV Route Management Plan and Strategy, by way of Unilateral Undertaking to LCC. This is detailed in the HGVRP commitments (Table 1, item 13 and in paragraphs</p>	<p>LCC has maintained a position throughout the Examination that it will not take on responsibility for the administration of any HGV fund under the HGV Routeing Management Plan and Strategy. This is on the basis that there is no proposal from the Applicant to fund this administration cost. LCC have consistently requested that any reference to options for LCC administering this fund should be removed from the Unilateral Undertaking. This request has been ignored by the Applicant.</p> <p>Furthermore, LCC have consistently requested evidence of what measures a £200,000 fund could realistically deliver to act as a deterrent to HGV’s breaching prohibited routes. LCC notes that the Applicant has submitted a “mitigation costs plan”.</p> <p>This costs plan is limited in its contents and detail. Cost information excludes basics like design and RSA costs, traffic management, traffic regulation orders etc and can therefore not be relied upon. What can be relied upon however is that a £200k fund would deliver very limited interventions on the highway network.</p> <p>The document provides limited cost information for four possible interventions. The first is a gateway feature east of Sapcote village. It should be noted that this was previously proposed by the Applicant and dismissed through the course of the Examination on the back of a damning RSA. Therefore, this isn’t a deliverable proposal.</p> <p>The second proposal is for a junction table at Carey Hill Road in Stoney Stanton. It is unclear how this is intended to act as a deterrent for HGV use. Furthermore, no evidence has been submitted to suggest a speeding issue on Sapcote Road in Stoney Stanton at its junction with Carey Hill Road. Moreover, the presence of existing on-street parking acts as informal traffic calming. Ironically, this junction is the next junction to the New Road mini roundabout which it was noted during the course of the Examination the Proposed Development would have an unmitigated impact at yet no mitigation proposals were put forward.</p> <p>Proposals for the third and fourth interventions are unclear. The supporting drawings in the Strategy appendices are so basic its unclear where these measures are intended to be located, what impact they may have, and if they are safe and deliverable.</p> <p>In conclusion, LCC remains of the view that the £200,000 will provide little on the LRN to act as a deterrent for HGV’s breaching prohibited routes. The indicative illustrative measures have not been adequately costed and suggest more mitigation is deliverable than would be in reality. None of the measures appear to be deliverable.</p>
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	<p>[ER 3.3.332]. Warwickshire County Council (WCC) raised concerns regarding the proportionally shared breaches and considered that instead all breaches should be investigated [ER 3.3.332]. The ExA raised concerns that the Applicant’s proposal would result in the triggers being less likely to be reached during the first phase and therefore intervention would not occur leading to undesirable travel patterns in the initial phases. The ExA also highlighted that it is unclear how the relevant net plot proportion proposal would consider HGV’s travelling only to the railport, given this would approximately be 21.6% of the total HGV movement [ER 3.3.435]. The ExA concluded that for these reasons (principally that it does not appropriately consider enforcement or deal with mitigation), the HGVRP as submitted is not fit for purpose and should therefore weigh substantially against the Order being granted [ER 3.3.441].</p> <p>41. The ExA set out in section 7.4.124 amendments to the HGVRP which it considers would reduce the adverse effects so that it would then be neutral in the final planning balance [ER 3.3.442]. The Secretary of State invites comments from the Applicant on the ExA’s suggested amendments to the HGVRP.</p> <p>39. The ExA considered that while the proposed fund of £200,000 to pay for additional measures to discourage HGV’s routing via any of the prohibited routes was not secured via a Planning Obligation that it should follow and its acceptability be assessed against the same policy presumptions as one [ER 3.3.90 and 3.3.438]. The ExA concluded that as it was unclear how the sum was derived and whether it is reasonably relative to the scale and effects of the Proposed Development, it should not be taken into account [ER 3.3.438].</p>	<p>6.30 – 6.31). The planning obligation is detailed further in paragraph 7 below.</p> <p>3.39 The ExA suggested that the £200,000 fund should not be taken into account because the ExA considered it was not clear how the sum was derived and therefore whether it was reasonably related in scale and kind to the development [ER 3.3.438]. The Applicant sets out examples of measures to which such fund could be applied in the HGVRP (paragraph 6.32 and Table 3) and provides with this response (see Appendix 9) some costed examples of these measures, demonstrating how the fund could deliver such measures, should they be necessary, and thus the reasonable relationship between the size of the fund and the proposed development.</p> <p>3.40 The updated HGVRP also deals with some minor amendments requested by Warwickshire County Council (“WCC”) in respect of road names and numbers. The Applicant has discussed these changes with WCC and has actioned all comments received. As such, the Applicant understands that there are no outstanding issues between it and WCC.</p> <p>3.41 The Applicant’s amended HGVRP, together with the new planning obligation, secures the amendments suggested by the ExA. This approach ensures that the Secretary of State can be satisfied that the ExA’s specific measures are secured, but also provides certainty to the Applicant as to the measures to be provided and avoids the real risk of prolonged post-consent debate with the local authorities and/or a potential appeal in seeking to discharge the DCO requirement. This allows delivery of this nationally significant infrastructure project without undue delay.</p> <p>3.42 The Applicant notes that the ExA suggested that the inclusion of the additional measures which are now contained within the HGV Route Management Plan and Strategy and secured by DCO requirement and planning obligation, would reduce the adverse effects and therefore this matter would be considered neutral in planning balance [ER 3.3.442]. The Applicant agrees that having addressed the matters raised by the ExA, neutral weight should be given to this matter.</p> <p>3.39 The ExA suggested that the £200,000 fund should not be taken into account because the ExA considered it was not clear how the sum was</p>	
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		<p>derived and therefore whether it was reasonably related in scale and kind to the development [ER 3.3.438]. The Applicant sets out examples of measures to which such fund could be applied in the HGVRP (paragraph 6.32 and Table 3) and provides with this response (see Appendix 9) some costed examples of these measures, demonstrating how the fund could deliver such measures, should they be necessary, and thus the reasonable relationship between the size of the fund and the proposed development.</p>	
<p>Appendix 10: Noise - Deadline 8 Submissions of Dr Moore and Mr Moore</p>	<p>100. The Secretary of State notes that the Applicant's assessment of impacts from noise and vibration is contained in Chapter 10 of the ES [ER 3.5.6]. The main issues examined by the ExA relating to noise and vibration are set out at ER 3.5.94 – 3.5.139. The Secretary of State has considered the summary of the case put forward by the Applicant [ER 3.5.6 – 3.5.52] and the concerns raised by Interested Parties on the examination issues alongside the Applicant's responses to those concerns [ER 3.5.53 – 3.5.93]. The Secretary of State has carefully considered the ExA's findings in relation to the Application [ER 3.5.94 – 3.5.139] and in particular to the ExA's consideration of the Applicant's assessment in light the criticisms submitted during the Examination.</p> <p>101. On the question of the appropriateness of the Applicant's assessment, the Secretary of State notes that the ExA, having had careful regard to the concerns raised by Interested Parties and as a result of answers and clarification provided during the Examination concluded that the Applicant's assessment is sufficient to be relied upon. The ExA was also satisfied that the Applicant's assessment accords with the requirement set out in paragraph 5.193 of the NPSNN [ER 3.5.121]. Additionally, the ExA concluded that there was a low overall level of uncertainty with the assessment [ER 3.5.122].</p> <p>102. The ExA concluded that significant residual adverse effects could occur during both construction and operation at a number of receptors. However, the ExA considered that even if significant residual effects were to occur, for the reasons set out by the ExA at ER 3.5.123 - 3.5 127, the effects during the construction of the Proposed</p>	<p>3.47 The Applicant concludes that whilst the Applicant does not agree with the IPs' approach to the noise measurements for the reasons explained in the detailed response, the Applicant has undertaken an assessment using the IPs' data and confirms that the increase in noise levels is not materially different from and would not alter the Applicant's environmental assessment conclusions.</p> <p>3.48 The Applicant has responded to the submissions made by the Moore's at D8 in Hinckley NRFI Applicant's Response to Deadline 8 submissions made by Dr Moore and Mr Moore. This technical note has been shared with Blaby District Council and Hinckley and Bosworth Borough Council. Following this engagement the Councils have advised the Applicant they have no further comments to make on this issue. The position of the Councils therefore remains as stated in their respective Statements of Common Ground at the end of the examination [REP8-020 and REP8-021].</p>	<p>LCC defers to Blaby District Council and Hinckley and Bosworth Borough Council on this matter. However, in respect of assessment of road traffic noise, LCC highlights the inadequacies of the submitted traffic modelling. These errors/omissions will be replicated in any subsequent noise assessments.</p>

	<p>Development would not be unacceptable and that the Applicant has demonstrated that any adverse impacts would be mitigated and minimised in accordance with paragraph 5.195 of the NPSNN [ER 3.5.128]. On operational noise, for the reasons set out at ER 3.5.129 – 3.5.138, the ExA concluded that the operation of the Proposed Development would not cause an environment dominated by noise or harmful vibration, and that noise would not be highly perceptible at most times [ER 3.5.139]. Overall, the ExA considered that the measures and controls included in the ExA’s recommended Order would be adequate to mostly avoid significant adverse impacts on health and quality of life in respect of noise and vibration [ER 5.2.24]. However, the ExA considered that there would be possible significant residual effects to a relatively small number of receptors and these would typically occur during worst case scenarios, although noise is likely to be lower than predicted, and that this would weigh against the Proposed Development as this conflicts with paragraph 5.195 of the 2014 NPSNN [ER 5.2.26]. The Secretary of State is also minded to agree with the ExA’s conclusions on noise and vibration impacts.</p> <p>103. The Secretary of State is aware that during the examination, Dr. David Moore (Dr Moore) and Mr William David Moore (Mr Moore) raised concerns regarding the ambient noise levels used by the Applicant to assess impacts from noise as a result of the Proposed Development and the information used to assess train movements, suggesting that it has inflated ambient noise levels to reduce the magnitude of effects [ER 3.5.54 – 3.5.56]. The ExA considered the Applicant’s response outlined at ER 3.5.58 – 3.5.63 and concluded that its baseline is representative and was satisfied that the methods used by the Applicant to determine ambient noise was sufficient and in line with paragraph 5.193 of the NPSNN. However, the ExA recorded that it had received a further submission from Dr Moore and Mr Moore at Deadline 8 of the examination (8 March 2024) [ER 3.5.143]. The additional submission included a third-party noise report indicating that that the daytime, night-time and 24-hour noise levels measured at Billington Lakes are all notably lower than those measured by the Applicant [ER</p>		
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	<p>3.5.144 and 3.5.147]. The submission also suggests that the road noise levels used by the Applicant in its Noise Update Note are in error by 9.6Db [ER 3.5.148]. The ExA highlighted that it was unable to provide the Applicant with the opportunity to comment on this additional information and that it had not taken it into account as it considered that it would be procedurally unfair to the Applicant to do so [ER 3.5.149]. The Secretary of State therefore invites the Applicant to comment on the submissions of Dr Moore and Mr Moore listed in the ExA's report at paragraph 3.5.143.</p>		
Appendix 11: Plot 73	<p>170. The Secretary of State also invites comments on:</p> <p>the ExA's concerns relating to plot 73 and the potential for harmful effects from the construction and adjoining phases on occupiers who have yet to move out [ER 6.6.13 – 6.6.14], which the ExA concluded would be contrary to their rights under the Human Rights Act 1998 if this impacts on their peaceful enjoyment of their homes.</p>	<p>3.52 Notwithstanding the above, the Applicant confirms that it is in fact in advanced discussions with the landowner in respect of the acquisition of this land due to the timing provisions in the option agreement. Exchange of this early agreement has taken place with completion anticipated to follow imminently.</p>	<p>LCC has no comments to make on this matter.</p>
Appendix 12: M69 Junction 2	<p>44. The Secretary of State notes that both NH and LCC raised concerns around the Applicant's modelling of M69 J2 (Junction 20) and the additional arm to the roundabout. NH highlighted that the furnishing applied at the junction was incorrect as it has effectively resulted in the double discounting of trips in the 2036 with Development model, resulting in an under-estimation of traffic flows at the junction and the impact on the Strategic Road Network ("SRN") [ER 3.3.277 & 3.3.450].</p> <p>45. The Secretary of State notes that NH did not have sufficient time to run the four necessary modelling scenarios in relation to the changes submitted at Deadline 7 of the Examination on the approved base model [ER 3.3.278]. LCC also raised a number of concerns, including that the VISSIM model for the junction needs to be updated due to the potential impacts on traffic flows both on and off the circulatory of the M69 J2 due to the Pegasus crossing proposed at the access road into the site and the lack of safe crossings of the M69 J2 slip roads by pedestrians/ cyclists [ER 3.3.312].</p> <p>46. The ExA reported that it was not clear</p>	<p>4.1 Whilst not noted at paragraphs 169 or 170 of the Letter, at paragraph 48, the Secretary of State also invited comments from the Applicant to address safety concerns identified by the ExA relating to M69 Junction 2 as noted at paragraphs 44-47 of the Letter.</p> <p>4.2 The Applicant has engaged with National Highways further in respect of this junction and the ExA's concerns in respect of the modelling and design of the junction works [ER 3.3.450- 3.3.463]. Details of this engagement are set out in the attached HNRFI M69 J2 Modelling Note at Appendix 12.</p> <p>4.3 The ExA noted that National Highways considered that the furnishing had been applied incorrectly and resulted in double discounting in the 2036 with development model, which National Highways considered resulted in an under-estimation of traffic flows at the junction and the impact on the strategic road network (paragraph 44 of the Letter). This is turn partly informed the ExA's conclusions that the junction had not been properly assessed.</p> <p>4.4 Through its further engagement with National Highways, the Applicant has been able to establish that National Highways position as</p>	<p>LCC can confirm that revised VISSIM modelling for M69 J2 now includes the call times of the proposed Pegasus crossing on the proposed A47 link road. However, LCC are not in a position to agree that this model is acceptable given the outstanding highways safety problems identified during the Road Safety Audit (RSA) process as described below impact on its assumptions.</p> <p>The ExA concluded that the Applicant has not demonstrated how the Proposed Development would minimize the risk of road casualties and contribute towards the overall improvement of safety of the SRN in line with paragraph 4.66 of the NPSNN [ER 3.3.459].</p> <p>GG119² provides the requirements for road safety audit for highway schemes on the trunk road and motorway network. LCC's adopted policy the "Leicestershire Highway Design Guide"¹ stipulates that GG119 should also be applied on the LRN in Leicestershire.</p> <p>GG119 at paragraph 5.46 is absolutely clear that any third party led RSA must follow the process set out in the document for all stages of the RSA, including the approval and appointment of the RSA team.</p> <p>LCC consider that the Applicant's RSA approach to M69 J2 has been one to attempt to "divide and conquer" between LCC and National Highways, and the auditing process in GG119 has subsequently been selectively applied to suit. This is disappointing at best.</p> <p>It is important to remember that whilst the proposed and existing slip roads to M69</p>

	<p>whether the modelling took into account the extended crossing times for equestrians which may occur due to the Pegasus crossing and was of the view that there is insufficient information in front of the Examination to show that the modelling of the junction has been robustly considered. It further considered that this issue should not be left to the detailed design stage [ER 3.3.457 – 3.3.458].</p> <p>47. The ExA concluded that the Applicant has not demonstrated how the Proposed Development would minimize the risk of road casualties and contribute towards the overall improvement of safety of the SRN in line with paragraph 4.66 of the NPSNN [ER 3.3.459]. The ExA therefore recommended that the Secretary of State gives this matter very substantial weight against the making of the Order.</p> <p>48. The Secretary of State invites comments from the Applicant to address the safety concerns raised in respect of this junction.</p>	<p>recorded at ER 3.3.450 arose as a consequence of a misunderstanding within the National Highways team . As is confirmed in the Technical Note, the furnishing methodology has now been confirmed as agreed with National Highways and LCC, and has been applied correctly in accordance with that agreed methodology.</p> <p>4.5 As also confirmed in the M69 Junction 2 Modelling Note, the VISSIM model has been updated to include the Pegasus crossing. This takes account of a modelled 17 second crossing once in every minute to accommodate a typical time for a horse crossing. A review was also undertaken to assess the traffic flows as a result of the crossings at the junction.</p> <p>4.6 As a consequence National Highways have confirmed that the modelling is agreed in the updated Statement of Common Ground (Document 19.7C).</p> <p>4.7 On the resultant safety issues [ER3.3.457-3.3.459] the Applicant notes:</p> <p>4.7.1 LCC signed off the Stage 1 RSA brief during examination on 20th February 2024.</p> <p>4.7.2 A Stage 1 RSA report was completed in accordance with GG119, and this, along with the relevant response report was submitted during the Examination (REP8-025).</p> <p>4.7.3 The RSA was subsequently revised following approval of a brief by National Highways relating to the elements of work affecting the SRN. A response report was provided to National Highways by the Applicant who subsequently agreed with the recommendations which are deliverable through the detailed design process pursuant to the protective provisions contained in the DCO (Part 3 of Schedule 13).</p> <p>4.8 Completion of the RSA1 process in line with GG119 remains outstanding for the proposed changes to the SRN at this junction. The Applicant will continue to liaise with National Highways and LCC on this matter and will update the Secretary of State in due course. The Applicant therefore concludes that the safety concerns raised in respect of this junction have been fully addressed insofar as is required at this stage of the design</p>	<p>J2 are on the National Highways network, the proposed signal control of these slip roads together with the junction circulatory is within LCC’s jurisdiction.</p> <p>In February 2024 prior to the close of the Examination, the Applicant requested that LCC sign an RSA brief for all works proposed to be carried out on LCC’s network. This was based on drawing submissions available at this time and submitted to the Examination. These drawings included works to the M69 J2 as well as nine other impacted junctions on the LRN. To assist the ExA in their consideration of the scheme LCC signed this brief. In addition, LCC approved the proposed audit team from Midland Road Safety Ltd.</p> <p>It is unfortunate that the RSA that followed this brief was submitted by the Applicant at the final Examination deadline, with LCC not being asked or having an opportunity to provide a response in its capacity as overseeing organisation for the LRN and in line with GG119 before the closure of the Examination. GG119 is clear at paragraph 4.12 that “the design organisation shall manage the production of the RSA report in collaboration with the Overseeing Organisation”.</p> <p>Move forward to August 2024 and unbeknown to LCC, the Applicant separately approached National Highways with a different brief for an RSA for M69 J2 in an attempt to progress s278 approval processes in advance of determination. This brief included different drawing revisions to those included in the LCC brief, and importantly documents that have not been shared with LCC, did not form part of the Examination, nor appear to be publicly available. These documents include a Road Sign Strategy, and directional signage. This was entirely inappropriate.</p> <p>The subsequent RSA report dated October 2024 (Appendix 12 M69 J2 Road Safety Audit Stage 1 Report Ref: 24-1363.01-RSA1C) states at paragraph 1.2 that the brief was approved by LCC. This was not the case. It had not even been shared with LCC. Furthermore, at paragraph 1.5 the report goes on to describe attendance at a site visit. LCC were not made aware that this site visit was happening, nor were they invited.</p> <p>This was also the case with the RSA associated with the brief that LCC did sign. This is despite LCC requesting on 2nd February 2024 to be kept informed, and GG119 being clear that attendees at an RSA site visit are to be approved by the overseeing organisation. Having challenged this with the Applicant team, the response has been “we didn’t think LCC would attend”. We also note that Leicestershire Police were not invited to attend. This is simply not acceptable. GG119 exists to protect the safety of the travelling public and its processes are clearly set out for a fundamental safety reason.</p> <p>LCC and National Highways have challenged the Applicant’s approach to the RSA process, raising concerns that the network operates as a whole regardless of guardianship, and that safety implications are applicable to the operation of the junction as a whole and not distinct parts of the SRN or LRN.</p> <p>At a meeting with the Applicant on 16th January 2025 the Applicant proposed to</p>
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Appendix 13: Statement of Common Ground – National Highways			LCC has no comments to make on this document. This is a matter between the Applicant and National Highways

<p>Appendix 14: Gibbet Hill</p>	<p>57. The Secretary of State notes that NH believe the Planning Obligation of £344,704.83 to mitigate the impact of the Proposed Development is incorrect, with the main concerns as to the cost estimate being:</p> <ul style="list-style-type: none"> the source of the unit rates has not been identified, meaning that they may not be appropriate; the cost estimate excludes drainage considerations. NH notes that there are drainage assets that would be affected and would need to be relocated; the design would not allow for two HGVs to pass side-by-side, meaning that it would not help the issues identified; the £65,000 costs of accommodation works, works for statutory undertakers, provisional sums and prime costs is underestimated given NH's experience of this location. It considers £65,000 (plus inflation) should be given for the statutory undertakers alone; and the contingency value of 10% is underestimated. DfT TAG Unit A1.2 indicates this should be 46% at this stage, and even at construction preparation stage the advised figure is 20% [ER 3.3.297]. <p>58. NH reported that the Applicant believes the contribution to be proportionate to the scale of development referencing the Lutterworth East and Magna Park contributions at around £1.24m and £2.53m respectively [ER 3.3.299]. NH's response to this is outlined at ER 3.3.299 – 3.3.301] and it concludes that a proportionate figure would be in the region of £1,500,000 to £2,000,000 [ER 3.3.302].</p> <p>59. The ExA considered the concerns raised by NH to be well found and that the sum secured in the Planning Obligation is inadequate to mitigate the effects of the Proposed Development as the mitigation would not be fully funded. The ExA therefore recommended that the Secretary of State gives this little weight against the granting of the Order, in line with paragraph 5.214 of the NPSNN [ER 3.3.497 & 3.3.503].</p>	<p>5.8 As noted by the ExA [ER 3.3.493], the Applicant agreed with LCC, WCC and National Highways that the appropriate mitigation for the impact of the Proposed Development on this junction was a financial contribution, in lieu of physical works by the Applicant. WCC is holding on behalf of National Highways a number of financial contributions from other developers and the Applicant's contribution is to be added to those other funds and used by National Highways to implement a comprehensive scheme of works to the junction.</p> <p>5.9 The Applicant notes that the ExA considered the Applicant's proposed contribution towards works to be undertaken by National Highways at the Gibbet Hill roundabout was insufficient [ER 7.5.23]. The Applicant's original proposal was the provision of a financial contribution of £344,967.07. This was secured by way of a Unilateral Undertaking to LCC and the obligation was "<i>not to Commence Development unless and until written evidence has been provided to the County Council that [the contribution] has been paid to [Warwickshire County Council] or National Highways in full</i>". The ExA confirmed it was satisfied that the s106 planning obligation would allow the relevant sum to be transferred to a delivery body [ER 7.5.24].</p> <p>5.10 The Applicant has undertaken further sensitivity testing of the modelling work at this junction. This involved redistributing the furnished flows around the junction and this updated modelling, and the impacts of the Proposed Development on the junction, are now agreed with National Highways and its advisors, AECOM. The updated modelling has led to some minor alterations to the design of the mitigation scheme and a topographical survey has also been undertaken to inform a revised mitigation scheme in order to quantify an appropriate and proportionate contribution to the junction works and this has informed an updated cost plan. This new cost plan increases the total required contribution to £1,668,240.02 and the Applicant has therefore proposed a new planning obligation to pay a further £1,323,272.95. This planning obligation is payable in addition to and in the same manner as the original planning obligation. Further detail on the planning obligation is set out in section 7 below.</p>	<p>The Applicant has not fully involved LCC in discussions on Gibbet roundabout despite two of the arms of the junction being on its network and LCC has relied on National Highways and WCC sharing information.</p> <p>Whilst the Applicant has submitted an Arcady model to National Highways and WCC, this is contrary to the requests of all three Highway Authorities who have consistently advised the use of the National Highways VISSIM model for this junction to accurately replicate the complex movements. This is the approach taken by other developers where development proposals have an impact on this junction. We can only assume the Applicant has chosen not to use the VISSIM model on the basis it is unlikely to give them favorable results.</p> <p>LCC note that this Arcady model has then been used to develop a proposed scheme of mitigation. Based on the drawing submission, the proposal would appear to do little to increase capacity through the junction and appears to be little more than kerbline tweaks to improve Arcady model outputs.</p> <p>In reality, it is unlikely that the two-lane approaches and side by side tracking of HGV's around the circulatory (included in the model to give more favorable outputs) are deliverable and could safely operate in practice without side swipe collisions or hesitancy resulting in increased queue lengths and potential shunt type accidents. Indeed, to try to demonstrate these maneuvers are possible it appears that the Applicant has had to track vehicles moving at less than 10mph! In the absence of VISSIM modelling it is unclear if these tweaks would increase capacity on the ground and indeed mitigate the impacts of the proposed development.</p> <p>Furthermore, as the Applicant themselves highlight, the completion of the RSA1 process in line with GG119 remains outstanding. This is on the basis that no preliminary scheme of mitigation has been agreed to allow the stage 1 RSA process to commence.</p> <p>Nonetheless this scheme of mitigation that has not been agreed nor subject to an RSA process has then been costed by the Applicant but has not been verified by National Highways given outstanding concerns in respect of deliverability and highway safety, nor can LCC or WCC verify for the same reasons. A contribution of £1,323,272.95 has been inserted into the Unilateral Undertaking submitted by the Applicant. LCC has consistently advised the Applicant to agree this figure with National Highways prior to its inclusion. It is unfortunate that the Applicant has not progressed design matters to resolve this matter.</p>
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Appendix 15: Cross in Hand	<p>55. The Secretary of State notes that NH considered that insufficient modelling had been completed for this junction because the modelling was "missing geometric design information" and it failed to take into account HGV demand which, given the high HGV use, could significantly adversely affect junction operation [ER 3.3.290]. In light of this, NH questioned the adequacy of the proposed mitigation measures. It also notes that no Stage 1 Road Safety Audit ("RSA") has been completed in line with the requirements of GG 119 of Design Manual for Roads and Bridges [ER 3.3.291].</p> <p>56. The ExA reports that the Applicant proposed to commit to the work shown in Work 16 to mitigate the impact of the rise in HGV demands and to include a new provision in the Order, requirement 7 which the Applicant considered would allow it and the relevant highway authority to agree a different scheme should this be considered more appropriate [ER 3.3.489]. The ExA concluded that given the uncertainty as to whether Work 16 would mitigate the effects of the Proposed Development for the reasons set out by NH, and</p>	<p>5.13 The Applicant notes the concerns of the ExA as recorded at paragraphs 55 and 56 of the Letter and ER 3.3.290-3.3.292 arising from an absence of agreement with National Highways on modelling of the junction.</p> <p>5.14 The Applicant has since undertaken further sensitivity testing of the junction modelling to address the concerns of National Highways. This involved redistributing the furnished flows around the junction in proportion to the observed 2023 turning movements as explained in more detail in the Gibbet Hill - Cross in Hand Modelling Note (Appendix 14).</p> <p>5.15 As a result of information provided in the Technical Note, the Applicant has been able to agree that its proposed mitigation scheme (Work No 16) at the A5 Cross in Hands roundabout, will suitably mitigate the traffic impacts of the proposed development on the A5. This agreement is recorded in the updated Statement of Common Ground with National Highways (19.7C).</p> <p>5.16 A Stage 1 RSA report was completed</p>	<p>The ExA concluded that the SoS should have confidence that the Proposed Development would mitigate its effects when she takes her decision. Unfortunately, LCC are unable to offer the SoS any reassurance in this regard.</p> <p>The Applicant acknowledges that completion of the GG119² process remains outstanding. GG119 provides the requirements for road safety audit for highway schemes on the trunk road and motorway network. LCC's adopted policy the "Leicestershire Highway Design Guide"¹ stipulates that GG119 should also be applied on the LRN in Leicestershire.</p> <p>GG119 at paragraph 5.46 is absolutely clear that any third party led RSA must follow the process set out in the document for all stages of the RSA, including the approval and appointment of the RSA team.</p> <p>LCC consider that the Applicant's RSA approach to Cross in Hand roundabout has been one to attempt to "divide and conquer" between LCC, National Highways and WCC, and the auditing process in GG119 has subsequently been selectively applied to suit. This is disappointing at best.</p> <p>It is important to remember that this junction is under the guardianship of all three Highway Authorities. Indeed, the scheme of mitigation proposed by the Applicant includes for works on all three networks.</p> <p>In February 2024 prior to the close of the Examination, the Applicant requested that</p>

	<p>while requirement 7 in the ExA's recommended Order would provide a practical way forward, this would require agreement of the parties [ER 3.3.491]. The ExA concluded that the Secretary of State should be able to have confidence that the Proposed Development would mitigate its effects when she takes her decision in order to comply with paragraph 5.213 of the NPSNN [ER 3.3.490]. Given the uncertainty described above, the ExA concluded that the Proposed Development would not mitigate its effects and therefore, in line with paragraph 5.124 of the NPSNN, recommended that the Secretary of State place limited weight against the granting of the Order for this matter [ER 3.3.492].</p>	<p>following LCC approving the brief in accordance with GG119 identifying no safety concerns with the proposals at this junction. The Stage 1 RSA report was submitted during the Examination [REP8-025].</p> <p>5.17 The RSA was subsequently revised on 29 August 2024 as NH approved a brief relating to the elements of work affecting the SRN. This RSA also identified no safety concerns with the proposals at this junction (Appendix 15 – Cross in Hand Road Safety Audit Stage 1).</p> <p>5.18 Completion of the RSA1 process in line with GG119 remains outstanding for the proposed changes to the SRN at this junction. The Applicant will continue to liaise with National Highways and LCC on this matter and will update the Secretary of State in due course.</p>	<p>LCC sign an RSA brief for all works proposed to be carried out on LCC's network. This was based on drawing submissions available at this time and submitted to the Examination. These drawings include works to the Cross in Hand roundabout (A4303 and Coal Pit Lane (part) LRN in Leicestershire) as well as nine other impacted junctions on the LRN. To assist the ExA in their consideration of the scheme LCC signed this brief. In addition, LCC approved the proposed audit team from Midland Road Safety Ltd.</p> <p>It is unfortunate that the RSA that followed this brief was submitted by the Applicant at the final Examination deadline, with LCC not being asked or having an opportunity to provide a response in its capacity as overseeing organisation for the LRN and in line with GG119 before the closure of the Examination.</p> <p>Move forward to August 2024 and unbeknown to LCC, the Applicant separately approached National Highways (and not LCC or WCC) with a different brief for an RSA for Cross in Hand roundabout.</p> <p>The subsequent RSA report dated August 2024 (Appendix 15 Cross in Hand Road Safety Audit Stage 1 Report Ref: 24-1363.04-RSA1A) states at paragraph 1.2 that the brief was approved by LCC. This was not the case on the basis it had not been shared with LCC. It is important to note that despite the RSA stating WCC are also an overseeing organisation, the brief was not shared with them for approval either.</p> <p>Furthermore, at paragraph 1.5 the report goes on to describe attendance at a site visit. LCC were not made aware that this site visit was happening, nor were they invited. This was also the case with the RSA associated with the brief that LCC did sign. This is despite LCC requesting on 2nd February 2024 to be kept informed, and GG119 being clear that attendees at an RSA site visit are to be approved by the overseeing organisation. Having challenged this with the Applicant team, the response has been "we didn't think LCC would attend". We also note that Leicestershire Police were not invited to attend. This is simply not acceptable. GG119 exists to protect the safety of the travelling public and its processes are clearly set out for a fundamental safety reason.</p> <p>LCC, National Highways and WCC have challenged the Applicant's approach to the RSA process, raising concerns that the network operates as a whole regardless of guardianship, and that safety implications are applicable to the operation of the junction as a whole and not distinct parts of the SRN or LRN.</p> <p>At a meeting with the Applicant on 16th January 2025 the Applicant proposed to address their error by submitting a new joint brief to the highway authorities. However, the Applicant has subsequently challenged WCC involvement. This is on the basis that the Applicant remains unclear which scheme of mitigation they are proposing.</p> <p>GG119 may be silent on cross boundary assessments but simple common-sense dictates that where a junction is to be subject to an RSA and this junction is formed partly of the LRN and SRN, then either a joint brief should be issued or at least both</p>
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Appendix 16: M69 J1	<p>53. The ExA notes that traffic would be removed from the M69 J1 circulatory by the new slip roads at M69 J2, The Secretary of State notes that queues at the A5 southbound in the AM peak would reduce by over 90% but would increase junction time at the B4109 southbound, particularly between 07:30 to 08:30 [ER 3.3.479]. Noting the lack of agreement with NH, which stated that it was unable to verify the Applicant’s position, the ExA still concluded that the benefits at the junction would be reduced by the adverse effects on the delays at B4109 and so placed little beneficial weight in favour of making the Order [ER 3.3.286 and ER 3.3.480 - 3.3.481].</p>	<p>5.19 The ExA noted at ER 3.3.480 and ER 3.3.481 that National Highways had not been able to agree the modelling of the junction and verify the Applicant’s position. Through further engagement with National Highways as set out in the Hinckley NRFI M69 J1 Modelling Note, they are now able to agree the modelling undertaken by the Applicant as noted in the updated Statement of Common Ground with National Highways [19.7C]. Accordingly, they are content that the impacts are not severe and that no mitigation at this junction is required.</p>	<p>National Highways have confirmed that the Applicant has now adequately modelled M69 J1 in VISSIM and has concluded through a Statement of Common Ground that the proposed development does not need to mitigate its impact at this junction. LCC accepts this position.</p>
Appendix 17: Public Rights of Way	<p>86. The ExA noted the policy presumption in paragraph 5.216 of the NPSNN that there is a very strong expectation that impacts on accessibility for non-motorised users should be mitigated and the equivalent expectation in what became paragraph</p>	<p>5.20 The ExA and Secretary of State note that it should be possible to dedicate a public footpath through the site once detailed design has been finalised [ER 3.3.606 and the Letter paragraph 86]. The Applicant has reflected on this position and</p>	<p>LCC welcomes the dedication of a public footpath through the Proposed Development site as indicatively shown on the amended Access and Rights of Way Plans, subject to detailed design considerations. LCC notes that amendments have been made to the draft DCO to accommodate this change and have no comments to</p>

<p>5.282 of the 2024 NNNPS, which adds that “<i>where [mitigation] cannot be done, the applicant is required to provide reasoning for this</i>”. It highlights that the Proposed Development would lead to an 33% increase in distance for pedestrians travelling between Elmesthorpe and Burbage Common Woods by permissive routes or 125% by definitive routes, with an increase of 306% for equestrians [ER 3.3.604]. Cyclists could follow either route. The ExA considers that the alternatives proposed by the Applicant would not mitigate these longer journeys and would result in severance for both pedestrians and equestrians [ER 3.3.605]. The Secretary of State notes that the ExA considered that due to the conflict of road and rail traffic, it is unsafe to re-provide the direct routes through the Application site in line with the policy test set out in the 2004 NNNPS (and NPSNN), but that it should be possible to dedicate at least a footpath through the site following detailed design [ER 3.3.606].</p> <p>87. The Secretary of State notes that a new bridleway is proposed to run through 22ha of open space that would be provided to the north of Burbage Wood [ER 3.3.608]. She notes that the ExA recommended that positive weight should be given to this proposal due to the benefits that would occur for those using that area [ER 3.3.609].</p> <p>88. The Secretary of State notes the ExA’s consideration at ER 3.3.610 – 3.3.617 of the pedestrian level crossings that it is proposed be closed and the conclusion that the impact of all of the closures would be neutral.</p> <p>89. The Secretary of State also notes that under Requirement 27 the Public Rights of Way appraisal and strategy must be submitted and approved before any works commence. LCC raised concerns that the Public Rights of Way appraisal and strategy cannot be relied upon under Requirement 27as they only make recommendations. However, she notes that the ExA considered that appropriate arrangements could be made at the detailed design stage [ER 3.3.618].</p> <p>90. Overall, the ExA recommended that the Secretary of State places moderate weight against the Proposed Development in relation to the closure and diversions of PRowS not being mitigated, resulting in severance for pedestrians and equestrians between Elmesthorpe and Burbage Common Road [ER 3.3.619].</p>	<p>proposes the addition of a formally dedicated footpath which will be provided alongside the internal estate road as part of the detailed design.</p> <p>5.21 The amendments submitted ensure that a new public footpath will be dedicated between points 40 and 41 on the Access and Rights of Way Plans. The plans then show an indicative alignment between those points, with the precise alignment and detail to be agreed with LCC as part of the detailed design process for the internal estate road. The Applicant confirms that details of this approach have been provided to LCC along with the proposed drafting to be included in the Applicant’s dDCO. LCC has not indicated any disagreement or concerns with the approach taken by the Applicant.</p> <p>5.22 This proposal is reflected in updates to article 13 and a new Part 4 of Schedule 5 in the Applicant’s dDCO, Access and Rights of Way Plans (Documents 2.3A, 2.3B and 2.3C, Appendix 17), the Public Rights of Way Appraisal and Strategy (Document 6.2.11.2E, Appendix 5) and ES Figure 11.14 which details the Public Rights of Way and Informal Open Space Strategy (Document 6.3.11.14D, Appendix 5) which are also updated in the list of documents to be certified in Schedule 15 of the DCO.</p>	<p>make on the proposed wording.</p>
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<p>Appendix 18: Draft Development Consent Order [Applicant's version] (<i>document reference 3.1E</i>)</p> <p>Schedule of changes made to the draft Development Consent Order – December 2024 (<i>document reference 3.4D Revision 5</i>)</p>		<p>6.1 The Applicant has updated its draft DCO (dDCO) submitted at Deadline 7 of the Examination to deal with the changes it has made in response to the Letter. It has also updated the Explanatory Memorandum (Document 3.2D) and a provides a Schedule of Changes to the dDCO (Document 3.4D) to explain the changes that have been made.</p> <p>6.2 In brief summary, the changes to the dDCO to accommodate the changes explained in this response are:</p> <p>6.2.1 Amendments to the description of Work No. 12 and the addition of requirement 5(4) in relation to the 'Enhanced' Sapcote works;</p> <p>6.2.2 Reference to the acoustic barrier being provided as part of the A47 Link Road works (Work No. 7) in Work No. 9, where part of the barrier has been moved into this work area as explained in paragraph 2.49 above;</p> <p>6.2.3 Amendments to requirement 4(4) to include a new sub-paragraph to provide further detail and commitments in respect of the maximum height and location of the acoustic barriers, including those near to the Aston Firs Travellers Site which are to comply with ES Figure 10.10A;</p> <p>6.2.4 Amendments to article 20 and Part 3, paragraph 5 of Schedule 13 to reflect the agreed position with LCC that the Applicant will maintain the acoustic barriers provided as part of the development and to reflect that the parties may enter into a licence to govern any necessary access to the highway for the carrying out of such maintenance;</p> <p>6.2.5 Amendments to article 13 and Schedule 5 to address the newly proposed footpath through the site;</p> <p>6.2.6 Updates to Schedule 15.</p> <p>6.3 The amended dDCO also includes the following wording, not related to the changes made in response to the Letter, but which are updates</p>	<p>LCC has no comments to make on the following suggested wording changes:</p> <ul style="list-style-type: none"> • Amendments to the description of Work No. 12 and the addition of requirement 5(4) in relation to the 'Enhanced' Sapcote works • Reference to the acoustic barrier being provided as part of the A47 Link Road works • Amendments to requirement 4(4) to include a new sub-paragraph to provide further detail and commitments in respect of the maximum height and location of the acoustic barriers • Amendments to article 20 and Part 3, paragraph 5 of Schedule 13 to reflect the Applicant will maintain the acoustic barriers provided as part of the development in perpetuity and to reflect that the parties may enter into a licence to govern any necessary access to the highway for the carrying out of such maintenance • Amendments to article 13 and Schedule 5 to address the newly proposed footpath through the site • Amendments to the protective provisions for the benefit of Network Rail and LCC to reflect the adoption and maintenance of the A47 Link Road Bridge structure by Network Rail and not LCC
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		<p>to the Applicant's Deadline 7 dDCO to reflect the Applicant's requests and suggestions to the ExA in the Applicant's Final Summations and Signposting submission at Deadline 8 [REP8-027]:</p> <p>6.3.1 Amended requirement 28 (combined heat and power) as agreed between the Applicant and Blaby District Council – these amendments were made by the ExA in its rDCO;</p> <p>6.3.2 Amendments to the protective provisions for the benefit of Network Rail and for Leicestershire County Council to reflect the adoption of the A47 Link Road Bridge. The Applicant notes that the ExA did not consider that Leicestershire County Council should be required to adopt and maintain the A47 Link Road bridge over the railway [ER 7.4.39 – 7.4.46] in circumstances where the Council did not agree to it. As confirmed by the Applicant and Network Rail¹⁵, Network Rail is willing to adopt and maintain the bridge and the Applicant proposed appropriate wording and amendments to the relevant provisions of the dDCO to reflect this in its Final Summations and Signposting submission at Deadline 8 [REP8-027]. The ExA included this suggested wording in its rDCO and recommended that the Secretary of State consult with LCC on that wording. The Applicant notes that LCC will have the opportunity to respond to this wording in response to this submission. The Applicant confirms that it is content for the bridge to be adopted and maintained by Network Rail and has therefore made those changes to the dDCO;</p> <p>6.3.3 Amendments to the protective provisions for the benefit of National Highways dealing with the Applicant's responses to National Highways' Deadline 7 submission in relation to the land provisions and ensuring adequate drainage of the strategic road network. These changes were not made by the ExA in its rDCO due to the ExA's conclusions at ER 7.4.157 – 7.4.165. The Applicant does not intend to repeat its submissions made during Examination in this regard, the most recent of which is [REP8-016];</p> <p>6.3.4 Updated version of the Book of Reference in Schedule 15 to reflect the version submitted at Deadline 8. This amendment was not made by the ExA in its rDCO</p>	
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		<p>6.4 The Applicant has also taken the opportunity to correct some minor typographical changes to the Deadline 7 dDCO which are explained in the Schedule of Changes to the dDCO (Document 3.4D).</p> <p>6.5 The Applicant's preferred dDCO continues to be the version included with this response (Document 3.1E) and it does not agree with all of the ExA's recommended changes. The Applicant relies on and invites the Secretary of State to consider its position as presented during Examination in respect of the necessary provisions of the DCO¹⁶ The Applicant has not addressed every single recommended change in this response, respecting that was not the purpose of the Secretary of State's request in her Letter and that she will form her own view on the drafting of any DCO (in the event of a positive decision) in any event. The Applicant provides amended versions of both its own preferred DCO and the ExA's rDCO to reflect the changes made in response specifically to the Letter in order to assist the Secretary of State in the drafting of the Order, should the Secretary of State be minded to grant consent.</p>	
<p>Appendix 19: Unilateral Undertaking (document reference 9.2C)</p>	<p>78. The Secretary of State notes that a s106 Planning Obligation was not agreed between LCC and the Applicant due to the Applicant's reluctance to contribute towards the works at the Desford Crossroads; its position being that a contribution "is not necessary or related to the Project ... the impact of the development at Desford Crossroads does not warrant any mitigation" [ER 3.3.570]. She also notes that the LinSig capacity assessment showed that the Desford Crossroads would operate at overcapacity in the year 2036 and the Applicant's view that it would not be significant [ER 3.3.571].</p> <p>79. The ExA considered that without any mitigation, the Proposed Development would result in the junction deteriorating and would therefore not be in line with paragraphs 5.213 of the NPSNN. The ExA however recommended that the Secretary of State should give little weight against the granting of the Order for this matter, given the degree of the effect of the Proposed Development at this junction [ER 3.3.572].</p>	<p>5.4 As noted in paragraph 78 of the Letter, the Applicant did not agree a planning obligation in respect of Desford Crossroads during the Examination.</p> <p>5.5 The Applicant was unable to agree a contribution with LCC because during Examination as LCC had failed to provide any justification, or any calculation or method for ascertaining a proportionate contribution for the impact of the Proposed Development at the junction. Following a request in their Local Impact Report for the inclusion of this junction, amongst others, in the Applicant's Transport Assessment, the Applicant first learned of LCC's request for a proportionate contribution (unquantified) at Deadline 4 (9 January) [REP4-181], confirming that there was an existing costed scheme referred to by LCC as their preferred scheme of improvements that would be delivered when all necessary funds had been raised. LCC identified the level of contribution it considered to be appropriate (£1,516,344.42) shortly prior to Deadline 5 but did not explain how this figure had been derived. Both parties noted their positions in their Deadline 5 submissions [Applicant – REP5-042,</p>	<p>LCC are taken aback by the Applicant's suggestion in their covering submission letter that they were "unable to agree a contribution with LCC because during Examination as LCC had failed to provide any justification, or any calculation or method for ascertaining a proportionate contribution for the impact of the Proposed Development at the junction". This is simply not the case. As detailed by LCC in several deadline submissions, and by the ExA at paragraph 3.3.570 of their report, throughout the Examination the Applicant refused to acknowledge that mitigation was required at this junction, let alone request further information.</p> <p>Nonetheless, agreement has been reached with the Applicant to a contribution of £1,060,272.19 as set out in the Unilateral Undertaking. The reason for this revised figure is because of the Applicant providing further information on proposed development traffic flows through this junction, and not in response to any implied change in position or calculation method by LCC.</p> <p>LCC has maintained a position throughout the Examination that it will not take on responsibility for the administration of any HGV fund under the HGV Routeing Management Plan and Strategy. This is on the basis that there is no proposal from the Applicant to fund this administration cost. LCC have consistently requested that any reference to options for LCC administering this fund should be removed from the Unilateral Undertaking. This request has been repeatedly ignored by the Applicant.</p> <p>As set out above, a scheme of mitigation for Gibbet roundabout has been costed by the Applicant but has not been verified by National Highways given outstanding</p>

		<p>LCC - REP5- 075] but LCC provided no detail or justification for the sum of money that it had asked to be given.</p> <p>5.6 The ExA noted the impact of the Proposed Development on the junction would be to reduce reserve capacity by 0.6% in the AM peak and 2.1% in the PM peak¹³ and considered that the Applicant should make a contribution towards mitigation, placing little weight against the absence of a contribution due to the limited degree of effect [ER 3.3.570 - 3.3.572].</p> <p>5.7 Noting the ExA's conclusions, the Applicant re-engaged with the County Council over the period between late September – early December following receipt of the Letter to seek to agree an appropriate contribution to the junction. The Council initially requested the significantly increased sum of £1,878,696.29, stating that this was based on their methodology, but the methodology was not provided. The Applicant is aware of another recent grant of planning permission on appeal for development with a similar impact at the junction which was accompanied by an obligation to make a contribution of just £263,498.00¹⁴ It therefore asked the Council to justify the substantially higher figure it was seeking here, requested sight of the Council's methodology. In response to this engagement the Council has provided to the Applicant a revised request for a substantially reduced contribution of £1,060,272.19 together with the calculation. The Applicant has agreed to this request, and the contribution is secured in the new planning obligation as detailed in section 7 below.</p> <p>7.14 The new Unilateral Undertaking also secures the payment of the Desford Crossroads Contribution (£1,060,272.19 (subject to indexation)) to LCC towards the Desford Crossroads Contribution Purpose prior to Commencement of Development.</p> <p>7.15 There is a restriction on Commencing Development until the Desford Crossroads Contribution has been paid to LCC.</p> <p>7.5 The Additional Gibbet Hill Contribution (£1,323,272.95) is to be paid to WCC as a contribution towards the Gibbet Hill Contribution</p>	<p>concerns in respect of deliverability and highway safety. A contribution of £1,323,272.95 has been inserted into the Unilateral Undertaking submitted by the Applicant. LCC has consistently advised the Applicant to agree this figure with National Highways prior to its inclusion. It is unfortunate that this hasn't happened.</p> <p>LCC had requested that the Applicant provide evidence of title. Whilst title was provided, there wasn't sufficient time allowed for LCC to carry out checking in advance of the Unilateral Undertaking being completed. This has now been done, and LCC note that Title Numbers LT371683 and LT273590 have not been provided. Furthermore, with regard to title number LT490587, this refers to Caroline Jane Ellis whereas the Unilateral Undertaking refers to Caroline Jayne Ellis. From other submitted documents LCC believes that "Jayne" is the correct spelling. Should LCC have been allowed time to check prior to submission, this would have been raised with the Applicant prior to completion.</p>
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