

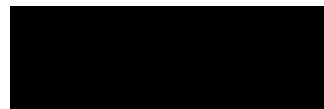
**Private and Confidential
For Addressee Only**

Case Team
Transport Infrastructure Planning Unit
Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Date: 7 February 2025
Our Ref: MAILEP\328273.000006

Direct:

Email:



By email: HinckleySRFI@planninginspectorate.gov.uk

Dear Sirs,

**APPLICATION FOR THE PROPOSED HINCKLEY RAIL FREIGHT INTERCHANGE
DEVELOPMENT CONSENT ORDER**

**APPLICANT'S RESPONSE TO THE SECRETARY OF STATE'S LETTER DATED 20 DECEMBER
2024**

1. INTRODUCTION

- 1.1 On 10 September 2024 the Secretary of State issued a letter ("the September Letter") and published the Examining Authority's report ("the ExA's Report") in respect of the application by Tritax Symmetry (Hinckley) Limited ("the Applicant") for the proposed Hinckley National Rail Freight Interchange Development Consent Order. The Applicant responded to the September Letter in the Applicant's Submission of Additional Information of 10 December 2024 ("the Applicant's December Submission").
- 1.2 The Secretary of State subsequently issued a further letter dated 20 December 2004 ("the December Letter"):
- 1.2.1 inviting comments from Interested Parties on the Applicant's December Submission; and
- 1.2.2 requesting a further update from the Applicant, on any matters that remain outstanding, which should set out the status of negotiations and confirm whether the Applicant is of the view that agreement with the relevant Interested Party(s) might be reached and, if so, when they expect to conclude such an agreement.
- 1.3 This letter and the enclosed Matters That Remain Outstanding document provide the information requested from the Applicant in response. In seeking to further resolve matters following the December Letter and to assist the Secretary of State with her final determination of the Application, the Applicant has engaged with the principal Interested Parties. Details of this engagement are set out in Appendix 1. The primary focus of this engagement has been to try to reach agreement, where possible, on the determinative issues set out in paragraphs 169 and 170 of the September Letter or where such agreement was not possible to frame the extent of any disagreement. In addition, the Applicant also sought to resolve other non-determinative matters to which the ExA had ascribed negative weight as referred to at section 5 of its covering letter to its December Submission. It is acknowledged that on some matters which then inform the wider consideration of these issues, the Interested Parties do not agree with the conclusions of the Examining Authority

(ExA) in its recommendation report. The Applicant has not sought to re-open discussion on those matters in this post-examination phase as it assumes that the Secretary of State will adopt those conclusions save where the Secretary of State has asked for additional information in the September Letter. The Matters That Remain Outstanding document has therefore not attempted to capture all of the matters which the Applicant believes Interested Parties may still regard as outstanding where those matters were raised in the examination, were not accepted by the ExA, and were not the subject of further questions in the September Letter.

- 1.4 It was the Applicant's intention that in order to best assist the Secretary of State, this engagement would result in either updated Statements of Common Ground or a collaborative approach to the drafting of each parties' respective positions set out in the Matters That Remain Outstanding document.
- 1.5 Regrettably, and despite discussions between the Applicant and both Blaby District Council and Hinckley and Bosworth Borough Council at officer level, both Councils have refused to engage in this exercise on the advice of their legal advisors. This was confirmed to the Applicant by email on 30 January 2025 (see Appendix 2). Accordingly, the Matters That Remain Outstanding document records the Applicant's understanding of the residual position of each Council as a result of those discussions on relevant matters for which it has an administrative responsibility.
- 1.6 In addition, National Highways informed the Applicant that they were working to a timetable of 7 February 2025 and would not be able to share any details of their conclusions or response in advance of their submission so as to inform the agreement of further common ground or to assist in understanding the scope and extent of any remaining disagreement. Accordingly, the Matters That Remain Outstanding document records the Applicant's understanding of outstanding issues through email exchanges and Technical Working Group discussions.
- 1.7 Leicestershire County Council did respond to the Applicant on their position as recorded in the Matters That Remain Outstanding document. The Applicant has incorporated their comments where it considered it appropriate to frame the issues that remain in dispute, noting the Applicant's approach explained at paragraph 1.3 above.
- 1.8 Finally, Warwickshire County Council (WCC) has provided the Applicant with its outstanding concerns and observations on how matters have evolved since it concluded its Statement of Common Ground [REP7-072] with the Applicant. A number of these concerns again relate to matters that were raised by WCC during the examination, but not supported by the ExA in its recommendation report. WCC's observations have therefore been reflected in the Matters That Remain Outstanding document where relevant.
- 1.9 The Applicant has summarised its understanding of the residual position on each issue below with more detail contained in the Matters That Remain Outstanding document. However, should the submissions of any Interested Party present a substantively different position of which the Applicant was not aware, it reserves its position to respond further to the Secretary of State in order to ensure procedural fairness.
- 1.10 Notwithstanding that reservation, the Applicant believes that the Applicant's December Submission has satisfactorily addressed the matters in respect of which the Secretary of State was minded to withhold consent, and that the Secretary of State should now be in a position to positively determine the Application and make the Order.

2. **M1 Junction 21/M69 Junction 3**

- 2.1 As explained in the Applicant's December Submission, no VISSIM model for this junction currently exists, and the Applicant does not consider it reasonably possible to build a VISSIM model from scratch to inform assessment of the operation of the junction. The Applicant noted the abortive attempts of the various Highway Authorities to do so in the past in this regard. It considers that a properly validated LinSiG model provides a robust basis upon which to model the operation of the junction, and inform both the need for mitigation and an assessment as to its safety.

- 2.2 The updated Statement of Common Ground with National Highways (Document 19.7C included as part of the Applicant's December Submission) recorded its agreement to the LinSig model's proper validation and accordingly the Applicant understands National Highways' evolved position from the close of the examination to be that, whilst a VISSIM model would still be preferred, the Applicant's LinSig model has been validated and provides a suitable model to inform assessment of the junction. It is further agreed that the output of the LinSig model confirms that no mitigation is required.
- 2.3 On the safety of the junction, the Applicant had submitted to the examination as part of its Transport Assessment [APP-117], a COBALT assessment which demonstrates no change in annual average number of collisions due to the development in the forecast years of 2026-2036. The Applicant considers the use of COBALT to be supported by IEMA guidance as referred to in the Matters That Remain Outstanding document. The Applicant understands that National Highways did not previously consider this assessment in its examination responses to the ExA, but has indicated to the Applicant that it will now comment on it as part of its response to the Applicant's December Submission. However, it was unable to confirm the nature of its response to the Applicant in advance. The Applicant reserves its position to comment further to Secretary of State upon its publication should it be necessary.
- 2.4 Leicestershire County Council (LCC) remain of the view that a VISSIM model is required and that it cannot progress further consideration of impacts at the junction without it. The Applicant therefore does not consider any agreement with them on impacts at this junction and related conclusions on the safe operation of the junction will be possible.

3. **Sapcote**

- 3.1 In Appendix 2 of its December Submission, the Applicant provided updated mitigation proposals for Sapcote, referred to therein as the enhanced Sapcote scheme. The enhanced Sapcote scheme has been subject to a Stage 1 Road Safety Audit by two independent auditors, and the Applicant has agreed to all recommendations made by the auditors.
- 3.2 Nevertheless, LCC is unwilling to sign off the recommendation report as it does not consider that the auditor's recommendation of vehicle activated signage to warn drivers within Sapcote of the potential for oncoming vehicles to be present in the middle of the road will be effective.
- 3.3 The Applicant disagrees and relies on the conclusions of the two independent audits as a robust and established means to demonstrate the in-principle safety of its proposals. The precise location and design of the sign would be subject to detailed approval as part of the Stage 2 Road Safety Audit in accordance with usual practice.
- 3.4 The Applicant therefore believes that the Secretary of State should be able to conclude that this issue is resolved on the basis of its December Submission.

4. **M69 Junction 2**

- 4.1 The Applicant's December Submission confirmed that the matters relating to the modelling of the junction had now been agreed with National Highways as noted in the updated Statement of Common Ground (Document 19.7C). Outstanding matters were therefore confined to the resultant safety issues.
- 4.2 The Applicant has completed a Stage 1 Road Safety Audit for the junction, and it is agreed with National Highways that the recommendations are deliverable through the detailed design process secured by the protective provisions in the DCO.
- 4.3 The only outstanding matter appears to be a semantic procedural point being pursued by LCC that because the works to the local highway network and the strategic network were audited pursuant to separate briefs signed off by LCC and National Highways respectively, that the resultant audit does not comply with the guidance in GG119, and that there has been no holistic audit of the junction. LCC is not willing to sign off the recommendations report as a result. The Applicant does not believe that National Highways share this

concern, but notes that they are not able to formally sign off the audit until LCC have signed off the recommendations report for its works.

4.4 In order to address this concern, the Applicant asked the independent safety auditor to consider the point LCC has raised and respond to it. A copy of the Applicant's question to the auditor and the auditor's response is enclosed at Appendix 3. The Secretary of State will note the auditor's conclusion that the use of separate briefs is GG119 compliant, and that the audit conclusions would not have changed had the respective works been consolidated into a single audit brief.

4.5 Accordingly, the Applicant believes that the Secretary of State can consider all issues relating to M69 Junction 2 to have now been resolved.

5. **Ambulatory Impacted Pedestrians at Narborough Level Crossing**

5.1 Through its recent engagement with the local authorities, the Applicant has not been made aware of any outstanding issues regarding its proposals to address the impact on ambulatory impacted pedestrians at the level crossing, and accordingly considers that its proposals are satisfactory in addressing the Equality Act matters raised by the Secretary of State and the Examining Authority.

6. **Aston Firs**

6.1 Through its recent engagement with the local authorities, the Applicant has not been made aware of any substantive outstanding issues or concerns regarding its revised proposals to address the impact on residents of Aston Firs from an Equality Act perspective, and accordingly considers that its revised proposals are satisfactory in addressing the matters raised by the Secretary of State and the Examining Authority.

7. **Sustainable Transport Strategy**

7.1 The Applicant included the ExA's recommended changes in the updated Sustainable Transport Strategy (STS) submitted as part of the Applicant's December Submission (Document 6.2.8.1F). Accordingly, the STS may now be included within the list of documents certified by the Secretary of State under the DCO rather than an outline plan subject to further approval.

7.2 By avoiding the need to seek the approval of multiple authorities at a later stage, the Applicant believes that this will assist in the timely delivery and operation of nationally significant infrastructure.

8. **HGV Routeing Plan**

8.1 The Applicant included the ExA's recommended changes in the updated HGV Routeing Plan submitted as part of the Applicant's December Submission (Document 17.4F). Accordingly, the Plan may now be included within the list of documents certified by the Secretary of State under the DCO rather than an outline plan subject to further approval.

8.2 By avoiding the need to seek the approval of multiple authorities at a later stage, the Applicant believes that this will assist in the timely delivery and operation of nationally significant infrastructure.

8.3 The only outstanding issue related to the Plan of which the Applicant is aware and which has not previously been raised by Interested Parties, concerns the inclusion within the Unilateral Undertaking dated 10 December 2024 of an option for LCC to administer the HGV Routeing Enforcement Fund. LCC objects as it does not wish to take on what it perceives to be an administrative burden. The Applicant has repeatedly explained to LCC that this is an option exercisable at its sole discretion and that consequently there is no obligation on LCC to administer the fund. Should LCC not wish to exercise this option, then the fund would be administered by the Applicant in accordance with the terms of the HGV Routeing Plan as required by the Unilateral Undertaking dated 8 March 2024.

8.4 The Applicant does not consider that this is an issue which therefore needs to be resolved further, and is certainly not one which should cause the DCO to be withheld.

9. **Dr Moore and Mr Moore and Plot 73**

9.1 The Applicant is not aware of any outstanding issues following its December Submission.

10. **Other Matters**

10.1 At section 5 of its December Submission letter dated 10 December 2024 responding to the September Letter, the Applicant commented on a number of other non-determinative matters which the ExA nevertheless considered should weigh against the scheme and which it felt it was able to address.

10.2 In respect of these, the Applicant has not been made aware that any unresolved issues remain with the exception of:

10.2.1 the safety audit undertaken for the Cross in Hand Junction in so far as that audit complies with the requirements of GG119. The Applicant understands that these concerns are similar to those raised in relation to M69 Junction 2 and are answered similarly by reference to the auditor's letter at Appendix 3;

10.2.2 whether the appropriate National Highways personnel were invited to attend the Cross in Hand site visit¹. Again, this point is addressed by the auditor's letter at Appendix 3;

10.2.3 LCC's concern as to whether issues noted in the interim Road Safety Audit for the Cross in Hand junction were then resolved in the Stage 1 Audit Report. The Applicant has confirmed to LCC that the potential continued existence of these issues this would have been considered in Section 3 of the Audit Report; and

10.2.4 National Highways have yet to review the Applicant's design for the Gibbet Hill Roundabout², and therefore have not approved the related safety audit brief. Furthermore, the Applicant has yet to receive National Highways' response as to the Applicant's updated proposal of the quantum of the contribution secured to deliver wider mitigation at the Gibbet Hill Roundabout. However, the Applicant re-emphasises its previous submission that the amount of the contribution is within the range suggested by National Highways during the examination.

10.2.5 Whilst WCC have raised some outstanding issues in relation to the Gibbet Hill Roundabout, the Applicant understands that these relate to modelling (a point made in examination that was not adopted by the ExA who noted that National Highways were satisfied on this point), or matters related to deliverability of the Applicant's design to which it defers to the position of National Highways who have yet to review it.

11. **Blaby District Council Letter to Secretary of State dated 22nd January 2025**

11.1 The Applicant is aware of the letter written to the Secretary of State by the Leader of Blaby District Council and its Planning Portfolio holder as this has been published on the Council's website. The Applicant does not wish to comment in detail on the content of the letter as the majority of the points made are an open and unfounded challenge to the Planning Act 2008 process and the discretion of the Secretary of State to seek further information post-examination where she considers it appropriate.

¹ It should be noted that there were no recommendations arising as a result of the Stage 1 RSA at the Cross in Hand junction.

² It should also be recalled that the Gibbet Hill roundabout scheme was designed in order to calculate the Applicant's proportionate contribution to a wider scheme which is then secured through the Unilateral Undertakings dated 8 March 2024 and 10 December 2024

- 11.2 However, the penultimate paragraph of the letter contains a clear factual misstatement which the Applicant must correct. It states:

This extended wait for a decision is having a material impact on local plan making but more importantly is causing a huge amount of stress to the residents in this area especially those under threat of losing their homes due to compulsory purchase.

The application proposes no compulsory acquisition of residential properties and did not do so at any stage of its formulation. The Applicant is surprised that the Council and its Leader would make such an erroneous statement given the active involvement of both during the Examination.

12. **Conclusion**

- 12.1 In overall conclusion, the Applicant believes that it has addressed the Secretary of State's concerns raised in her September Letter through its December Submission and based on its discussions with Interested Parties believes that there are consequently no substantive reasons why the Secretary of State cannot now proceed to make the Order without further delay.

- 12.2 However, the Applicant is mindful that it has reached this view without having the opportunity to see the responses of Interested Parties to its December Submission. As previously set out in those submissions, the Applicant would welcome an opportunity for a final right of reply to any Interested Party submissions in accordance with established practice and reflecting the requirements of procedural fairness.

- 12.3 The Applicant considers that it is likely to be able to submit any such response without the need for a further delay to the Secretary of State's decision and looks forward to hearing further from the Secretary of State in that regard. Should this change upon review of Interested Parties' submission, the Applicant will inform the Secretary of State as soon as possible.

Yours faithfully



Eversheds Sutherland (International) LLP

Encs

Appendix 1

Details of Engagement with Interested Parties since 10 December 2024

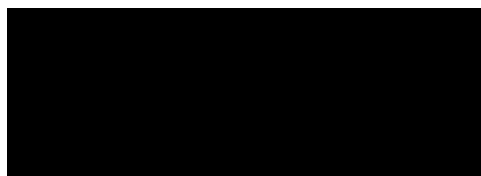
Engagement Schedule

Meeting Title	Date of Meeting	Attendees
HNRFI Transport Working Group	30/01/2025	TSHL NH LCC WCC HBBC BDC Markides (for BDC/HBBC) BWB
HNRFI Transport Working Group	23/01/2025	TSHL LCC WCC AECOM Markides (for BDC/HBBC)
HNRFI Catch up	17/01/2025	TSHL HBBC Framptons
HNRFI Transport Working Group	16/01/2025	TSHL NH LCC HBBC BDC WCC Markides (for BDC/HBBC) BWB
SoCG HNRFI WCC Discussion	15/01/2025	TSHL WCC BWB
HNRFI Transport Working Group	09/01/2025	TSHL LCC HBBC
LCC Highways SoCG - HNRFI	08/01/2025	TSHL LCC

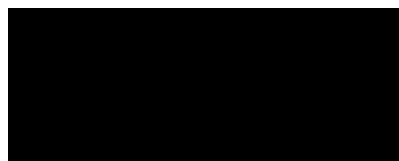
Meeting Title	Date of Meeting	Attendees
		BWB
HNRFI Response	19/12/2024	TSHL Framptons HBBC
HNRFI Transport Working Group	19/12/2024	TSHL BDC HBBC LCC
HNRFI Transport Working Group	12/12/2024	TSHL BWB HBBC LCC

Transport Working Group Members

Tritax Symmetry (Hinckley) Limited (TSHL)



Leicestershire County Council (LCC)



Blaby District Council (BDC)

- [REDACTED]

Hinckley and Bosworth Borough Council (HBBC)

- † [REDACTED]

Warwickshire County Council (WCC)



National Highways (NH)

- [REDACTED]
- [REDACTED]

BWB

- [REDACTED]
- [REDACTED]
- [REDACTED]

Markides Associates

- [REDACTED]

AECOM

- † [REDACTED]

Framptons Planning (Framptons)

- [REDACTED]

Appendix 2

**Email on behalf of Blaby District Council and Hinckley and Bosworth Borough
Council to the Applicant dated 30 January 2025**

[REDACTED]

From: [REDACTED]
Sent: 30 January 2025 13:59
To: Sinead Turnbull; Adam Lloyd; Peter Frampton
Subject: HNRFI - Position Statement

Good Afternoon Sinead et al, I've now received the advice from Pitmans, which is endorsed by the councils, on the position statement which you circulated yesterday. Neither council is prepared to be party to the position statement and to avoid any confusion for the SoS we would request that the reference to both HBBC and BDC under the section listing IPs referenced in the document be removed and that the two lines under M1 J21/ M69 J3 for both councils also be removed.

Thank you

Mike

[REDACTED]
PKR Planning Ltd

Appendix 3

**Email from BWB (Applicant's highways consultant) to Midlands Road Safety Ltd
(independent road safety auditor) dated 27 January 2025 and Letter from
Midlands Road Safety dated 28 January 2025**

[REDACTED]

From: [REDACTED]
Sent: 27 January 2025 16:20
To: [REDACTED]
Subject: HNRFI - Stage 1 RSA Process

Hi Chris

Further to the Road Safety Audit reports completed by Midlands Road Safety (references 24-1363.01-RSA1C - Hinckley Rail Int and 24-1363.04-RSA1A - J27 A5 Coal Pit Lane) the overseeing authorities for these cross boundary works at M69 Junction 2 and A5 Cross in Hands Roundabout have raised concerns around the process that was followed in the commissioning and completion of the Audits.

The overseeing authorities in both cases are concerned that there was never a single agreed brief which both authorities were party to for each junction. As a result, they have questioned whether the requirements of GG 119 have been followed and are concerned that the Audit may not have considered all safety matters arising from a comprehensive design comprising the works described in each separate brief for the junctions in question.

To assist with our response to this, I should be grateful if you would provide me with a letter from yourself setting out your views on this matter that we might share with the authorities in an effort to reassure them that the audits have followed the requirements of the standard and have considered all of the relevant safety issues for each junction.

I trust that this is acceptable to you, but please do not hesitate to contact me with any queries.

Kind Regards,

Sam Carter
On behalf of BWB Consulting
[REDACTED]



28 January 2025
Letter Ref: 1363-HNRFI-L01
Your Ref: HNRFI



Midlands Road Safety Ltd

**29 Arboretum Street
Nottingham, NG1 4JA
T: +44 (0) 7791121104**

FAO Sam Carter
BWB Consulting
5th Floor
Waterfront House
Station Street
Nottingham
NG2 3DQ
BY EMAIL ONLY

Dear Sam,

RE: HNRFI Road Safety Audits

Following your email dated 27/01/2025 I wanted to write with regard to the Stage 1 Road Safety Audits that Midlands Road Safety Ltd were commissioned to undertake on the works proposed as part of the Hinckley National Rail Freight Interchange (HNRFI) project, specifically with regard to the two cross-boundary elements of the work.

The works were detailed in the two Road Safety Audit Briefs as provided to us, specifically HNRFI-BWB-GEN-RSA-B-TR-001_Audit Brief (National Highways Network), approved by National Highways Safety Team in August 2024 and HNRFI-BWB-GEN-RSA-B-TR-002_Audit Brief (Local Road Network), agreed by Leicestershire County Council in February 2024.

Site visits were undertaken for each audit, as detailed within Section 1 of the reports, with representatives from National Highways (Greg Allgood of the National Highways Safety Improvements Team) attending the site visits for the M69 Junction 2 and A5 Coal Pit Lane sites. This was done at the request of Lucia Hogg (by email to Sam Carter 14/08/2024) upon notification of the approval of the RSA1 brief and CVs of the Audit Team. The M69 Junction 2 site visit was also attended by Lucia Hogg (Assistant Project Manager, Third Party Works) and Gurbinderbir Singh Padam (Project Manager, Third Party Works).

Following the visits, a separate Stage 1 Road Safety Audit report was provided for each junction (ref. 24-1363.01-RSA1C Hinckley Rail Int and 24-1363.04-RSA1A – J27 A5 Coal Pit Lane), identifying any road safety problems identified as appropriate and as discussed and agreed during the site visits.

In your email of 27/01/2025 I understand that the highway authorities have questions whether the approach of having separate RSA briefs is either contrary to the requirements of GG119 (the DMRB standard for Road Safety Audit) or whether this approach has meant that information has been missed in the course of the Audit process, such that the holistic operation of M69 Junction 2 and A5 Cross in Hands Roundabout based on the information in

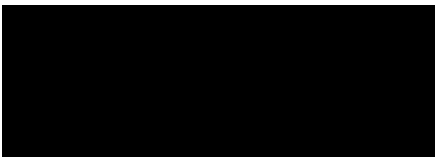


its brief has not been undertaken. Furthermore, it is understood that a request has been submitted for a new, consolidated brief is provided for the M69 Junction 2 and one for the A5 Cross in Hands Roundabout (junction with Coal Pit Lane) sites.

It is my view that, in terms of following the processes of GG119, the audits undertaken to date have been in line with this and with the agreed briefs. I am not aware of anywhere within GG119 that addresses the specific concern raised nor am I aware of anything within those sections of the guidance (pp. 4.2-4.5.1 and 5.4-5.6.1) that states the approach undertaken is not acceptable. Had we felt that the information was insufficient to undertake the stage of audit this is something that we would have raised.

With regard to an alternative approach to the provision of the briefs, having reviewed the information provided both in terms of the drawings and associated documentation including the Transport Assessment, I cannot see that the findings of the audit report would have been any different if based on the same information being provided within a consolidated brief.

Yours sincerely,



**Chris Berry MSc, MCIHT, MSoRSA, NH Cert Comp
Director**

 [@midlandsroadsafety.co.uk](mailto: [redacted]@midlandsroadsafety.co.uk)