



Department
for Transport

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10 March 2025

Tritax Symmetry
Grange Park Court
Roman Way
Northampton
NN4 5EA

Dear Sir/Madam,

PLANNING ACT 2008

APPLICATION FOR THE PROPOSED HINCKLEY RAIL FREIGHT INTERCHANGE DEVELOPMENT CONSENT ORDER

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to:

- the Report dated 10 June 2024 of the Examining Authority (“ExA”), comprised of Robert Jackson BA MPhil DMS MRTPI MCIM (Panel Lead), Graham Sword MA PGDip Urban Conservation Dip ILM (L5) MRTPI, and Matthew Heron BA (Hons) MA MRTPI who conducted an Examination (“the Examination”) into the application made by Tritax Symmetry (Hinckley) Limited (“the Applicant”) for the Hinckley Rail Freight Interchange Development Consent Order under section 37 of the Planning Act 2008 (“the PA2008”) dated 17 March 2023 (“the Application”);
- representations submitted in response to the ‘minded to refuse’ letter published on 10 September 2024; and

- late representations received by the Secretary of State following the close of the Examination.

2. The ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the Report") was made publicly available alongside the 'minded to refuse' letter published on 10 September 2024. All "ER" references are to the specified paragraph in the Report. Paragraph numbers in the Report are quoted in the form "ER XX.XX.XX" as appropriate. References to "requirements" are to those in Schedule 2 to the draft Order as recommended by the ExA ("the ExA's recommended Order"), set out at pages 46 - 66 of that Order. This letter should be read alongside the Examining Authority's Report and the 10 September 2024 'minded to refuse' letter that are published on the Planning Inspectorate website for the Application.

3. This decision was delegated by the Secretary of State to Mike Kane MP, Parliamentary Under Secretary of State for Transport. While this decision has not been taken by the Secretary of State, by law, it must be issued in the name of the Secretary of State.

THE APPLICATION

4. The Application was received on 17 March 2023 and accepted for Examination on 6 April 2023. The Examination of the Application began on 13 September 2023 and was completed on 12 March 2024. The Examination was conducted on the basis of written and oral submissions submitted to the ExA and a series of hearings. The ExA also undertook unaccompanied site inspections on 8 and 9 August 2023, 14 September 2023, and 2 and 15 November 2023, and an accompanied site visit on 16 November 2023.

5. The Development Consent Order ("the Order") as applied for would allow for the construction and operation of a new Strategic Rail Freight Interchange on land near Junction 2 of the M69 (referred to as 'the Proposed Development'). The Applicant also seeks compulsory acquisition, compulsory acquisition of rights and the imposition of restrictive covenants and temporary possession powers as part of the Order.

6. Works on the main part of the Application site comprise:

- the demolition of all buildings and the existing bridge over the Hinckley to Leicester railway on Burbage Common Road;
- new rail infrastructure including points off the existing Hinckley to Leicester railway providing access to a series of parallel sidings at the Application site, in which trains would be unloaded, marshalled and loaded;
- an intermodal freight terminal or 'railport' capable of accommodating up to 16 trains up to 775 metres (m) in length per day, with hard surfaced areas for container storage and heavy goods vehicle (HGV) parking and cranes for the loading and unloading of shipping containers from trains and lorries;

- up to 850,000 square metres (m²) (gross internal area) of warehousing and ancillary buildings with a total footprint of up to 650,000m² and up to 200,000m² of mezzanine floorspace, including the potential for some buildings to be directly rail connected. These buildings might incorporate ancillary data centres to support the requirements of occupiers and operators.
- roof-mounted photovoltaic arrays with a generation capacity of up to 42.4 megawatts (MW) providing direct electricity supply to the building or exporting surplus power to battery storage in the energy centre;
- an energy centre incorporating an electricity substation connected to the local electricity distribution network, battery storage and a gas fired combined heat and power plant with an electrical generation capacity of up to 5MW;
- a lorry park with welfare facilities for drivers and HGV fuelling facilities;
- a site hub building providing office, meeting space and marketing suite for use in connection with the management of the Proposed Development and ancillary car parking;
- terrain remodelling, hard and soft landscape works, amenity water features and planting;
- noise attenuation measures, including acoustic barriers up to 6m in height;
- habitat creation and enhancement, and the provision of publicly accessible amenity open space;
- pedestrian, equestrian and cycle access routes and infrastructure, including a new route from Elmesthorpe to Burbage Common;
- utility compounds, plant and service infrastructure;
- security and safety provisions inside the Application site including fencing and lighting; and
- drainage works including surface water retention ponds, underground attenuation tanks and swales.

7. The highways works associated with the Proposed Development comprise:

- works to M69 J2 comprising the reconfiguration of the existing roundabout and its approach and exit lanes, the addition of a southbound slip road for traffic joining the M69 and the addition of a northbound slip road for traffic leaving the M69;
- a new road ('the A47 Link Road') from the modified M69 J2 to the B4668/ A47 Leicester Road with a new bridge over the railway, providing vehicular access to the Proposed Development from east and west;
- modifications to several junctions and amendments to Traffic Regulation Orders on the local road network (LRN); and
- works closing four existing pedestrian level crossings on the Hinckley to Leicester railway with the associated footpaths being diverted.

8. In addition, the Proposed Development includes off-site (outside the Order Limits and ancillary to the Order) railway infrastructure including signals, signage and electricity connections.

CHANGES TO THE APPLICATION

9. As set out in the 'minded to refuse' letter (paragraphs 8 - 9), the Applicant put forward a change to the compulsory acquisition rights sought in Plot 22 during the Examination. Overall, the ExA concluded that none of the changes proposed by the Applicant, either individually or cumulatively, represented a change to the Application to the extent that a new application is required [ER 8.2.2]. The Secretary of State is also aware that the Applicant submitted a revised version Plot 27 in Sheet 2 of the Land Plans to show that Plot 27 would be subject to the acquisition of rights so that it is able to deal with third-party rights listed as Hinckley and Bosworth Borough Council, Leicestershire County Council, National Grid Electricity Transmission, Openreach Limited and the Applicant. The ExA concluded that while it considered that this issue not being identified until late in the Examination undesirable, given that the third-party rights are for the benefit of those identified and they have either been involved in the Examination or would be the subject of protective provisions, it was satisfied that that none would be prejudiced by this clarification [ER 6.2.26]. The Secretary of State agrees with the ExA's conclusions.

SUMMARY OF THE EXA'S RECOMMENDATIONS

10. The principal issues considered during the Examination on which the ExA reached conclusions on the case for development consent are set out in the Report under the following broad headings:

- Need and Alternatives
- Traffic and Transport
- Landscape and Visual
- Noise and Vibration
- Socio-Economic Considerations
- Air Quality and Emissions
- Biodiversity
- Cultural Heritage
- Water and Flood Risk
- Energy
- Geology and Soils
- Cumulative Effects

- Habitats Regulations Assessment
- The Planning Balance
- Equality Act 2010
- Heritage Balance
- Land Rights and Related Matters
- Draft Development Consent Order and Related Matters

11. For the reasons set out in the Report, the ExA recommended that the Secretary of State should not make an Order granting development consent for the Proposed Development as applied for [ER 8.3.1].

THE ‘MINDED TO REFUSE’ LETTER

12. A letter was published on 10 September 2024 (“the 10 September letter”) indicating that the then Secretary of State, was minded to refuse the Application and was not in a position to decide whether to accept the ExA’s recommendation unless the Applicant could provide further evidence demonstrating how several outstanding issues identified by the ExA can be satisfactorily addressed. The letter requested, at paragraphs 169 and 170, the Applicant to submit further information on:

- the safety concerns raised in respect of the M1 J21/ M69 J3 (Junction 15) and the lack of adequate modelling at this junction;
- the increased highway safety risk at Sapcote identified by the ExA;
- the concerns raised by the ExA on the impact on ambulatory impacted pedestrians at the Narborough Level Crossing; and
- any measures that might be included in the Order to avoid or mitigate the potential harm identified by the ExA to the occupiers of the Aston Firs Travellers site.

Comments were also invited on:

- the ExA’s revised Sustainable Transport Strategy;
- the ExA’s suggested amendments to the HGVRP;
- the submissions of Dr Moore and Mr Moore listed at ER 3.5.143; and
- 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].

13. The Applicant submitted a suite of additional information on 10 December 2024 which was published on 20 December. Views from all interested parties on the Applicant’s additional information was sought by the deadline of 7 February 2025.

14. The Applicant’s additional information and the responses from all other interested parties on this information were published on the Planning Inspectorate website for the Application.

15. The Applicant also submitted a response to the submissions of interested parties on 3 March 2025. That response is published alongside this letter. The Secretary of State has had regard to its contents but is satisfied that she has the information necessary to determine the application without requesting further responses from interested parties.

SUMMARY OF SECRETARY OF STATE'S CONSIDERATION

16. The Secretary of State's consideration of the Report, the information received from the Applicant in response to the 10 September 2024 letter, representations received after the close of Examination and all other material considerations are set out in the following paragraphs. Where consultation responses and late representations are not otherwise mentioned in this letter, it is the Secretary of State's view that these representations do not raise any new issues that were not considered by the ExA and do not give rise to an alternative conclusion.

17. The Secretary of State has had regard to the Local Impact Reports ("LIRs") prepared by Blaby District Council ("BDC"), Hinckley and Bosworth Borough Council ("HBBC"), Leicestershire County Council ("LCC") and Warwickshire County Council ("WCC") [ER 1.6.23] and any changes advised by the local authorities. The Secretary of State also notes the ExA's assessment, set out at ER 2.2, regarding relevant legal provisions, previous Development Consent Orders, transboundary effects and other relevant policy statements and agrees these will be matters to be considered in deciding this Application.

18. The Secretary of State has also had regard to the environmental information associated with the Proposed Development as defined in regulation 3(1) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

19. The Secretary of State is content that the Proposed Development is a National Significant Infrastructure Project ("NSIP") in accordance with section 14(1)(l) of the PA2008 and so requires development consent in accordance with section 31 of the PA2008 [ER 2.2.1]. In determining this Application, the Secretary of State must therefore have regard to any relevant National Policy Statement ("NPS"), any Local Impact Reports ("LIR") invited and submitted to the SoS before the specified deadline, any matters prescribed in relation to development of the description to which the Application relates, and any other matters the Secretary of State considers to be both important and relevant to the eventual decision [ER 2.2.3].

20. Under section 104(3) of the PA2008, the Secretary of State must decide this Application in accordance with any relevant NPS which in this case is the National Policy Statement for National Networks ('the NPSNN'), except to the extent that one or more of the exceptions in subsections (4) to (8) applies. A revised National Networks National Policy Statement was designated on 24 May 2024 ('the 2024 NNNPS') but only has effect

for any applications for development consent accepted for examination after the designation of the 2024 NNNPS. The Secretary of State notes paragraph 1.17 of the 2024 NNNPS and that it is potentially capable of being an important and relevant consideration in the decision-making process for applications accepted for examination before its designation but considers that it does not support a different outcome in this case. For those reasons, she has not given the 2024 NNNPS any material weight. The Secretary of State is satisfied that as set out in paragraph 1.16 of the 2024 NNNPS, for any application accepted for examination before designation of the 2024 NNNPS, the NPSNN should continue to have effect. The NPSNN therefore remains government policy in respect of the Proposed Development and continues to provide a proper basis on which the Planning Inspectorate can examine, and the Secretary of State can make decisions on, applications for development consent. Therefore, this Application will be decided in accordance with the NPSNN.

21. In addition to the representations on the matters detailed in the 10 September 2024 letter, the Secretary of State received a number of representations on the following issues:

- Need and Alternatives
- Traffic and Transport
 - Construction Traffic
 - Operational Traffic Modelling and Generation
 - Effect on Network
 - M69 J1 (Junction 13)
 - A5/A47 Longshoot and Dodwalls (Junctions 4 and 14)
 - A5 Cross in Hand (Junction 27)
 - A5 Gibbet Hill (Junction 26)
 - Junction of A47 Link Road and B4668 and Junction of A47, B4668 and The Common, south-east of Barwell (Junction 24)
 - Junction of A47, A447 and B4667, Hinckley (Junction 1)
 - B4669/ Stanton Lane, Sapcote junction (Junction 39)
 - Stoney Stanton
 - B4114 Coventry Road/ B581 Broughton Road, south of Croft (Junction 3)
 - B4114 Coventry Road/ Croft Road, south-west of Narborough (Junction 6)
 - Elmesthorpe
 - Desford Crossroads (A47/B582) (Junction 9)
- Rail
- Public Rights of Way
- Landscape and Visual
- Noise and Vibration

- Socio-Economic Considerations
- Air Quality and Emissions
- Cultural Heritage
- Air Quality and Emissions
- Energy
- Geology and Soils
- Habitats Regulations Assessment

22. These representations have been published on the Planning Inspectorate website for the Proposed Development. Having considered these responses, other than where stated below, the Secretary of State has concluded that these do not lead her to depart from the conclusions on these matters set out in the 10 September 2024 letter.

Aston Firs Travellers Site

23. The ExA concluded that the proposed 6-metre high noise barrier to be located along the south-eastern boundary of the site of the Proposed Development would result in a visually dominant and oppressive fence for a small number of the residential units located at the Aston Firs travellers site. The ExA concluded that this would have a considerable detrimental impact on the living conditions and mental health of those residents [ER 3.6.74 – 3.75 and 3.6.81, point 5]. The ExA also concluded that these impacts would result in discrimination of race as defined by the Equality Act 2010 and would result in the segregation of the residents of the Aston Firs Travellers Site from the surrounding local community [ER 3.6.79 and 5.4.11].

Applicant's Response

24. In its response, the Applicant expressed its surprise regarding the ExA's conclusion on this matter and its views on the severity of the impact on the occupiers of the Aston Firs Site, given that the subject attracted only one written question from the ExA and received little attention throughout the Examination. The Applicant states that had the ExA's concerns been brought to its attention during the Examination, it could have addressed the issue as it now proposes.

Applicant's Proposed Further Enhancements

25. The Secretary of State has considered the additional measures proposed by the Applicant to address the ExA's concerns on the impacts to the residents of the Aston Firs site which include:

- provision for a buffer zone of at least 12 metres between the acoustic barrier and the site boundary;
- redesign of the barrier at the southeastern boundary to reduce the height from 6 metres to 3 metres;

- provision for the realignment of the Public Right of Way and amended landscaping in the area; and
- provision for the use of a Gabion wall to provide an equivalent acoustic barrier of the same finished height and acoustic specification.

26. She notes that the Applicant has engaged with LCC's Aston Firs Site Manager. The Aston Firs Site Manager's response states that they have spoken to 75% of the residents and that these residents appreciate the alternations and new plans proposed by the Applicant. She also notes that the Applicant considers that although it is not possible to completely eliminate all impacts on the residents of the Aston Firs travellers site, it has sought to minimise the potential disadvantages that might be suffered by them to within established standards and acceptable levels of amenity.

Hinckley & Bosworth Borough Council & Blaby District Council

27. While both councils responded to confirm that they welcome the changes proposed to the 6-metre-high noise barrier, they also raised concerns regarding the impact of the 4-metre-high barrier at the northern site boundary. They state that this barrier would continue to be an unsightly and inhospitable boundary for the Aston Firs residents as well as being visually unattractive to wider views from beyond the fence from the eastern side of Freeholt Wood. The Secretary of State also notes that they raised concerns about the lack of detail on the management of the new 12 metre buffer zone.

The Secretary of State's Conclusion

28. The Secretary of State welcomes the changes proposed by the Applicant to help resolve the impact from the noise barriers at the south-eastern boundary, including the addition to Requirement 4(2)(v) proposed in the 3 March representation. She also agrees with the Applicant that the ExA should have given more prominence to this issue during the Examination given its views on the severity of the impacts and the implications for the Public Sector Equality Duty in order to allow the Applicant to address these issues earlier.

29. The Secretary of State considers that the Applicant's proposed changes reduce impacts on the residents of the Aston Firs travellers site to an acceptable level and that due regard has been paid to the needs identified in the Public Sector Equality Duty. She also notes the concerns raised by HBBC and BDC on the 4m barrier that remains along the north western boundary of the site. However, she remains in agreement with the ExA that the 4m barrier along the north-western boundary would not appear unduly oppressive [ER 3.6.73].

Sustainable Travel Strategy

30. As set out in paragraphs 33 - 37 of the 10 September letter, a number of concerns were raised in the ExA's Report on the Applicant's Sustainable Transport Strategy ("STS"), including:

- the mode-change targets were insufficiently challenging;

- the subsidy for employees using the Demand Response Transport service should be as for the existing bus services (a free six-month bus pass); and
- the Applicant did not investigate sustainable travel modes related to the provision of a rail passenger station sufficiently [ER 3.3.425].

31. The ExA concluded that together with the deficiencies in the STS, the Proposed Development would not accord with paragraph 5.211 of the NPSNN which states that the Secretary of State “should give due consideration to impacts on local transport networks and policies set out in local plans, for example, policies on demand management being undertaken at the local level”. The ExA also concluded that the Applicant had not demonstrated that the Proposed Development has been located in an area that can be made sustainable. It recommended that this should weigh substantially against granting the Order [ER 3.3.426]. The ExA suggested potential mitigation to the travel subsidy and single car occupation target issues in Requirement 9 of the ER [ER 7.4.105 - 7.4.108], although it also stated that this would not change its overall conclusion on this matter.

32. Paragraph 37 of the 10 September letter invited the Applicant to comment on the revised Sustainable Transport Strategy proposed by the ExA.

Applicant's Response

33. The Applicant's response states that the ExA had misunderstood the data submitted regarding single occupancy car trips. It highlighted that single occupancy car trips were not reported in its original STS because it used the Department for Transport's standard Journey to Work modes which do not differentiate between single occupancy drivers and car drivers who also car share. The Secretary of State welcomes the Applicant's clarification on the matter.

34. In regard to the re-opening of the Elmesthorpe passenger railway station, the Secretary of State notes that the Applicant disagreed with the ExA's conclusion that it has failed to give due consideration to Policy 5 of the Hinckley and Bosworth Borough Council Core Strategy [ER 3.3.424], highlighting that the Local Impact Report prepared by HBBC does not suggest that there would be any adverse impact to the achievement of the objectives of Policy 5 arising from the Proposed Development. The Applicant also states that in response to the ExA's concerns, it engaged further with Network Rail who confirmed in its response that although its revised assessment concluded that no engineering or topographical issues would prevent the construction of a passenger station at this location, it considers that due to the changes in commuting and retail travel since the Covid-19 pandemic, there is not a business case that would support a new station facility at this location.

35. The Applicant therefore considers the ExA's conclusion that the Proposed Development would be contrary to paragraph 5.211 of the NPSNN as neither reasonable nor justifiable.

Applicant's Proposed Further Enhancements

36. In response to the concerns set out by the ExA, the Applicant has proposed further amendments to address the ExA's concerns on the adequacy of the STS, including:

- revision of the Proposed Development's modal shift targets from 66% to 40% for single occupancy vehicles within 10 years;
- provision for an additional private bus service for which there will also be a free six-month bus pass; and
- revision of Schedule 15 of the Order to reflect this updated version of the STS and the updated Framework Site Wide Travel Plan.

National Highways

37. The Secretary of State notes that National Highways' response raised a number of concerns regarding the Applicant's revised STS, including: the lack of pedestrian provision proposed by the Applicant; and the lack of detail and transparency around the management and delivery of the proposed measures.

Leicestershire County Council

38. In LCC'S response, the key concerns raised were:

- the revised modal-shift targets proposed are not evidenced or supported by incentives for vehicle drivers to make the switch; and
- the lack of provision for any enforceable penalties if the revised targets are not met.

Blaby District Council

39. The Secretary of State notes that while BDC welcomed the changes proposed by the Applicant in its response, it raised a number of concerns including:

- the revised modal shift targets remain insufficient and unambitious;
- the lack of detail provided by the Applicant on the new STS proposals;
- the STS should be made Outline in order for it to be re-submitted to further consider the concerns of Interested Parties; and
- the lack of prioritisation for pedestrians and the visual dominance of cars from the potential of decked parking at the site of the Proposed Development.

Hinckley & Bosworth Borough Council

40. The Secretary of State notes HBBC's response welcomed the changes proposed but reiterated that the modal-shift targets remain unambitious and raised concerns about the achievability of the targets given the lack of detail provided by the Applicant. HBBC concluded that its overall position regarding of the inadequacy of the measures proposed remain, and because of the lack of detail on the costing and deliverability of the measures, it considers the STS to still be contrary to paragraphs 5.211 of the NPSNN.

The Secretary of State's Conclusion

41. The Secretary of State welcomes the changes proposed by the Applicant to the STS in response to the ExA's concerns highlighted in the Report and notes that in their response dated 3 March 2025, the Applicant has indicated it is content for the STS to be an outline plan (paragraph 2.40). However, she agrees with interested parties that a number of issues including deliverability and the detail of the mitigation measures could be improved. She considers that while the revised STS is an improvement, it does not fully address the concerns highlighted during the Examination. The Secretary of State therefore places limited negative weight against the Proposed Development.

HGV Route and Management Plan

42. The ExA concluded that the HGV Route and Management Plan ("HGVRP") weighs heavily against a decision to grant the Application because it does not properly consider enforcement mechanisms or adequately deal with the prospect of effective mitigations being delivered if necessary [ER 3.3.441]. In order to address the outstanding concerns, the ExA recommended an amendment to Requirement 18 which would require formal approval by the relevant planning authority [ER 7.4.124]. Paragraph 41 of the 10 September letter invited the Applicant to comment on the ExA's suggested amendments to the HGVRP.

Applicant's Proposed Further Enhancements

43. The Applicant's response states that it has proposed the following further amendments to address the ExA's concerns on the HGVRP:

- the removal of the triggers so that all occupiers of the warehousing and rail freight terminal will be subject to a financial penalty immediately each time a HNRFI HGV is recorded on a prohibited route;
- the amended HGVRP now sets a penalty for each breach at £1000; and
- provision for the proposed mitigation fund of £200,000 to be secured by a planning obligation.

44. The Applicant concluded that the additional measures would reduce the adverse effects and have addressed the matters raised by the ExA.

National Highways

45. National Highways' response states that provided the further penalty system to mitigate its concerns on intensified bridge strikes on the railway bridge over the A5 is suitably enforced and monitored, it does not have any objections to the revised HGVRP.

Leicestershire County Council

46. LCC's response confirmed that it remains of the view that the £200,000 mitigation fund proposed by the Applicant will not be an adequate deterrent for HGV's using the prohibited routes. It also objects to the administration of the fund being allocated to it. LCC also raised concerns on the overall costing and deliverability of the mitigation measures proposed by the Applicant.

Blaby District Council

47. The Secretary of State acknowledges that while BDC welcomed the revised HGVRP and considers that it addresses the concerns raised by the ExA, its response highlighted that the lack of additional cameras in the Blaby areas to ensure that the use of B4114 is specifically recorded as a concern.

Warwickshire County Council

48. WCC's response stated that it would welcome the HGVRP being secured as an Outline document to ensure that no high-sided HGVs travelling between the site to/from the north-west of England use that part of the A5 which passes beneath the Nutts Lane railway bridge until such time as the carriageway is lowered.

Hinckley & Bosworth Borough Council

49. In its response, HBBC highlighted its desire for the HGVRP to be an Outline document. It also raised concerns that the A47 had not been included as a prohibited route which may result in HGV traffic leaving the site and travelling west along the A47 link road and then enabling unrestricted access either north (to the A47) or south (into Hinckley) along the B4668 junction.

The Secretary of State's Conclusion

50. The Secretary of State welcomes the changes proposed by the Applicant to help resolve the issues set out by the ExA on the HGVRP. While she notes the concerns set out by interested parties, she considers that the proposed changes have reduced the impact from the Proposed Development HGVRP on traffic to an acceptable level. She therefore considers that the HGVRP weighs neutral in the overall planning balance.

M69 J2 (Junction 20)

51. Paragraphs 44 – 47 in the 10 September 2024 letter highlights National Highways' and LCC's concerns on the Applicant's modelling of M69 J2 (Junction 20). The ExA concluded that the Applicant has not demonstrated how the Proposed Development would minimise the risk of road casualties and contribute towards the overall improvement of safety of the strategic road network 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 [ER 3.3.463]. The 10 September

2024 letter invited comments from the Applicant to address the safety concerns raised in respect of this junction and interested parties were subsequently consulted on the Applicant's response.

52. The Secretary of State considers that the only outstanding matter relating to this junction is the road safety audit. The Applicant confirmed that while the LCC had signed off the Stage 1 Road Safety Audit brief, a Stage 1 Road Safety Audit in line with the GG119 Road Safety Audit standards remains outstanding for the Applicant's proposed changes to the strategic road network at this junction. The Applicant states that it will continue to liaise with National Highways and LCC on this matter and update the Secretary of State in due course. The Applicant concluded that the safety concerns in respect of this junction have been fully addressed as is required at this stage of the design process and will be fully mitigated in accordance with the agreed recommendations of the road safety audit through the detailed design process.

53. National Highways stated that while it had approved the Stage 1 Road Safety Audit response report for the proposed access road, it considers it important that LCC is appropriately engaged in the Stage 1 Road Safety Audit process due to the interaction of the local road network with this junction.

54. LCC highlighted a number of safety concerns in its representation (page 28 – 29). As with the Stage 1 Road Safety Audit for the Sapcote 'Enhanced Scheme' which is considered further in this decision letter below, LCC also raised concerns with the approach taken by the Applicant on the Road Safety Audit for this junction, stating that it does not comply with the requirements in the Leicestershire Highway Design Guide which cross references the DMRB GG119 Road Safety Audit standards. The question of compliance is disputed by the Applicant in its 3 March representation.

The Secretary of State's Conclusions

55. The Secretary of State agrees with National Highways that given the nature of this junction and the interaction between the strategic and local road networks, the Stage 1 Road Safety Audit should have followed the process set out in the Leicestershire Highway Design Guide and DMRB G119 standards. The Secretary of State notes that while it is the Applicant's intention to further consult both LCC and National Highways on the progress of the Road Safety Audit at a later stage, given that this currently remains an outstanding matter where, as demonstrated by the Applicant's 3 March representation, areas of disagreement remain, and there are potential safety concerns highlighted by LCC, this carries moderate weight against the Proposed Development.

M1 J21/ M69 J3 (Junction 15)

56. During the Examination National Highways, the relevant highway authority for the strategic road network, highlighted the complexity of this junction with its multiple segregated left turn lanes and merge/diverge arrangements [ER 3.3.281]. National Highways requested further details to verify the Applicant's LinSig model and when it was

provided with some information this did not include signal specification. In response to a further request, it was directed to a third-party model in a historic planning application. National Highways' position was that it was not possible to identify the impacts on this junction, and given the existing operational issues and the predicted increase in demand arising as a result of the Proposed Development, National Highways considered it likely that adverse effects on the safe and efficient operation of the strategic road network would occur [ER 3.3.283 - 3.3.284].

57. LCC, the relevant local highway authority, also raised a number of concerns including the Applicant's failure to acknowledge any impact at this junction. LCC highlighted that the strategic model shows Development traffic using this junction and displacing other traffic onto the local network. LCC was of the view that the Applicant should provide mitigation to attract back the displaced existing traffic which it considered would, potentially, reduce the need for mitigations on the local road network [ER 3.3.315]. LCC also considered that the use of the LinSig model is not appropriate as it would not capture all the complex movements and free flow links and thus the full effects of traffic movements [ER 3.3.317].

58. The ExA concluded that regardless of the model used, it is accepted that there would be an increase in delay and congestion at this junction as a result of the Proposed Development [ER 3.3.477]. The ExA was also of the view that this meant that the Applicant has not demonstrated that the Proposed Development would minimise the risk of road casualties and an overall improved in the safety of the strategic road network (NPSNN, paragraph 4.66) [ER 3.3.471] and therefore recommended that the Secretary of State place very substantial weight against the Proposed Development on this matter.

59. The 10 September 2024 letter invited comments from the Applicant on the concerns raised by the relevant highway authorities on the lack of adequate modelling and safety concerns at this junction. The Secretary of State invited the Applicant to submit any further evidence in light of these concerns, and in particular requested that it provide National Highways with the signal specification used in its 'M1 J21 Modelling Note'.

Applicant's Response

60. In its response to the 10 September letter, the Applicant stated that it does not consider building a VISSIM model from scratch to assess the impacts at the junction as reasonable or proportionate. The Applicant stated that the additional vehicles trips passing through the junction are only minor, with ten less trips in the AM peak and 114 additional trips in the PM peak. The Applicant also stated that following further discussions, National Highways confirmed that the LinSig modelling of the junction is acceptable. In response to the ExA's concern on the lack of mitigation proposed [ER 3.3.476], the Applicant set out that due to the current longstanding capacity constraints at junction 21, improvements to address these concerns would require significant Government investment. The Applicant concluded that the highway safety assessments it conducted show that the Proposed Development does not present an increased safety

risk. At the time of its submission, it had not received feedback from National Highways on its COBALT safety assessment.

61. In its 3 March 2025 response, the Applicant disputed National Highways' concerns about volatility in the LinSig model when the junction operates above the 90% capacity of the model, describing them as unfounded. It referred to the LinSig user guide, which states that in the 90-105% saturated range, the accuracy of its estimates would be "good" to "fairly accurate". The Applicant added that National Highways' concerns about the three segregated left-turn lanes ran contrary to its stated position at the end of the examination and was untenable.

National Highways

62. National Highways is the relevant highways authority for the strategic road network and is responsible for ensuring that the network operates safely and is managed in the public interest. National Highways state that while it has engaged with the Applicant's LinSig modelling work, it considers that the junction should have been assessed using either VISSIM or Paramics in order to provide a much more accurate representation of junction performance. After reviewing the modelling submitted by the Applicant, National Highways concluded:

- the over-capacity M69 approach worsens as a result of the Proposed Development traffic in both AM and PM peak periods. The model results show that in the AM peak hour, the queues will increase from 239m to 266m on lane one and 313m to 373m on lane two. In the PM peak hour, results forecast that regarding the worst of the two lanes, queues will increase from 141m to 174m;
- the model shows that the junction would be operating over 90% capacity limit which will increase the risk for the junction to operate differently in reality to what was predicted by the modelling;
- the Applicant's LinSig modelling ignores the three segregated left-turn lanes at M1 J21 diverging from M1 north, M1 South, and M69 approaches which results in the known existing congestion issues on these links not being taken into consideration when assessing the future Development traffic impacts.

63. On the COBALT safety modelling carried out by the Applicant, National Highways stated:

- no model input or output files are available to verify the correct model parameters (such as collision data, link flows and junction type), therefore assumptions have had to be made that these parameters were set up correctly; and
- all three segregated left turn lanes at the junction have been ignored, resulting in the COBALT modelling not accounting for the risk of blocking back from the segregated lane to the mainline, nor the risk of blocking back from the segregated lane to the circulatory.

64. National Highways also considered that given the inclusion of the local road network in the assessment and the integral nature of the junction performance and assessment on the local network, it is key that LCC be consulted on the assessment and assumptions so that they can consider the implications on their road network.

Leicestershire County Council

65. LCC highlighted its concerns with the Applicant's approach and highlighted that LinSig does not replicate existing road conditions. In summary, LCC's concerns focused on:

- the Applicant's reluctance to carry out VISSIM modelling and whether this has been because they know or assume it will not show favourable results;
- the Applicant's claim that there was not enough time to produce the model when LCC and NH had consistently made their position clear to the Applicant over a period of 6 years;
- that the full extent of the impacts at the junction and any required mitigation required remain unknown;
- the lack of evidence from the Applicant to justify a departure from the ExA's recommendation to afford this matter very substantial weight against making the Order.

Pages 27-29 of LCC's Response to Secretary of State Consultation 2 detail their comments on the junction in full.

The Secretary of State's Conclusion

66. The Secretary of State thanks both the Applicant and National Highways for their efforts to find a way forward on this issue. She notes that despite the engagement between these parties on the Applicant's subsequent LinSig modelling work, National Highways have concluded this junction should have been assessed using VISSIM or Paramics. Given the complexity of this junction the Secretary of State agrees and finds insufficient assurance in the Applicant's assertion that in the 90-105% saturated range, the accuracy of LinSig's estimates would be "good" to "fairly accurate". The Secretary of State also agrees with National Highways that it is not appropriate for the Applicant to rely on the modelling conducted for the Lutterworth East Scheme (and the mitigation for that scheme) because it is predominantly a residential development with less HGV effects, and in particular as the traffic from the Lutterworth East Scheme would be travelling north/south on the M1 and thus through signal-controlled elements of this junction [ER 3.3.470]. The Secretary of State also agrees with National Highways that given the integral nature of the junction performance and assessment on the local road network, it is key LCC is consulted on the assessment and assumptions so that they can consider the implications on the local road network.

Sapcote Village

67. As set out in paragraphs 63 – 66 of the 10 September 2024 letter, the ExA concluded that the Proposed Development would result in an unacceptable highway safety risk in the village of Sapcote which could not be mitigated within the terms of the Application [ER 3.3.539]. The impact arises as a result of the increase in the number of HGVs that would re-route via the B4669 through the village of Sapcote as a result of the south facing slip roads at the M69 Junction 2, which would be constructed as part of the Proposed Development [ER 3.3.510].

Applicant's Additional Information

68. The Secretary of State notes that the Applicant's Sapcote Technical Note states that the ExA erred in its analysis of the potential increase in HGV traffic in Sapcote. The Applicant highlights that the ExA's analysis took account of HGVs travelling to and from the Proposed Development which would be prohibited from using the B4669 route by the Applicant's HGV Route Management Plan and Strategy. The Applicant reports that LCC's strategic traffic model shows that currently, 160 HGVs use the westbound route and 35 HGVs use the eastbound route per day (page iii, Sapcote Technical Note). The ExA reported that by 2036, the annual average daily traffic of HGVs expected on Link 41 is predicted to increase to 472 movements, and on Link 43 404 movements. However, the Applicant states that the correct figure, after discounting HGVs associated with the Proposed Development which would be prohibited from using the route by the HGVRP, is an increase of up to 399 HGV movements on Link 41 and 326 movements on Link 43 (Table 5.1, Sapcote Technical Note).

69. The Secretary of State has also considered the additional mitigation ("the Enhanced Scheme") proposed by the Applicant which includes:

- further changes to the area outside of the Co-op so that it excludes all vehicles and is created as a pedestrian only area;
- widening the footway on the south side of the B4669 between the Co-op store and the Zebra crossing near Sharnford Road;
- provision of a bus stop layby to the east of New Walk;
- reduction of carriageway width, with road markings and associated signage to encourage large vehicles away from footways and to wait for oncoming vehicles to pass;
- provision of an uncontrolled crossing point over the B4669 to the west of Stanton Road; and
- provision of signing and road markings to guide large vehicles away from footways through the existing narrow section of carriageway to the east of the Co-op.

70. The Secretary of State has carefully considered section 6 the Applicant's Sapcote Technical Note and the Applicant's 3 March 2025 representation, which detail the way in which each of these measures addresses the ExA's concerns.

71. The Applicant reports that it submitted its Road Safety Audit 1 response in respect of the originally proposed works, along with the more detailed design proposals in the areas of concern identified by the road safety audit team and this demonstrates that the scheme as presented to the ExA could have adequately mitigated any significant safety issues as part of the Order as originally examined (page 1, Sapcote Technical Note). The Applicant reports that it submitted the Enhanced Scheme was submitted to two independent road safety auditors independent of the design team (paragraph 2.15, Applicant's Response), and that both auditors have produced a road safety audit report. The Secretary of State notes that the Applicant has agreed with all of the recommendations made by these auditors and have updated their proposals accordingly. The Applicant states that the auditor teams are both of the view that the changes made to the design mitigate the road safety problems raised in their reports and can be dealt with as part of the detailed design pursuant to the making of the Order. (page vi, Sapcote Technical Note).

72. The Applicant's 3 March response accepts that the Enhanced Scheme does provide a narrower carriageway to give more space to pedestrians on the footway, but adds that by creating a visibly narrower carriageway, it is much clearer than at present to large vehicles that they are unable to pass each other, encouraging them to wait and allow oncoming vehicles to proceed. In addition, realignment of the carriageway on both sides of this section provides much improved forward visibility to oncoming vehicles compared to what is available at present. It added that two priority working options and signalled shuttle working option were reviewed but considered unworkable.

Responses to the Secretary of State's Consultation on the Applicant's Additional Information

73. LCC, the relevant highway authority for the local road network, responded to highlight its concerns with the Enhanced Scheme which it considers will result in further safety Issues. In summary, its concerns are:

- The side access of the Co-op via Church Street, which the Applicant states that the Co-op will use if the Proposed Development is granted, is not currently utilised because HGV movements are restricted due to the width of the street and because of on-street parking. LCC also questioned how the use of the side access will be controlled and raised concern over the potential risk of vehicles continuing to use the front of the Co-op for deliveries by mounting the proposed widened footway. It also highlighted that there was no evidence of the Co-op's position within the Applicant's submission.
- A consequence of widening of the footway to allow for the relocated bus stop at the grass verge near New Walk would reduce the carriageway width. LCC state

that the Enhanced Scheme does not provide any priority working, and therefore where two larger vehicles are unable to pass, this is likely to result in a “stand-off”, vehicles reversing, and/or vehicles mounting the widened footway and that these will all increase risks to vehicle drivers and pedestrians. LCC highlighted that the Applicant had previously included priority working, but that was abandoned in light of comments from a road safety audit. LCC also state that 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.

- While the Applicant’s proposed oncoming visibility splays comply with the Leicestershire Highway Design Guide, LCC state that these are only accurate for stationary vehicles (e.g. vehicles waiting at a junction). LCC considers that this measure does not take into account moving vehicles approaching the pedestrian crossing or approaching other vehicles, with the consequence being reduced sight and stopping distances, which the LCC considers raises their own inherent safety risks.
- LCC are of the view that the Applicant’s conclusion that vehicle to pedestrian visibility will not be an issue at the proposed zebra crossing is not correct. LCC state that due to an existing building line, pedestrians in the blue hatched area highlighted in the figure below (page 7, Leicestershire County Council Response) will not be visible to vehicles travelling from the east, and vice versa.



74. In addition, the Secretary of State notes LCC's raised concerns with the designer's response to the Stage 1 Road Safety Audit for the Enhanced Scheme. LCC's concerns relate to vehicle signage and the deliverability of a waiting restriction to prevent on-street parking and to increase visibility.

Other Interested Parties

75. The Secretary of State notes that a number of interested parties including Blaby District Council, Alberto Cost MP, Dr Luke Evans MP, Sapcote Parish Council, local Parish Councillors and local residents also responded to raise concerns on the impacts detailed above. These representations have been published on the Planning Inspectorate website for this Application.

The Secretary of State's Conclusion

76. The Secretary of State notes that the correct predicted increase in the number of HGVs that may re-route through the village of Sapcote, which relies on the HGV Road Management Plan being a sufficient deterrent, is lower than reported by the ExA in its

Report. However, she still considers the correct predicted increase, which would occur as a result of the south facing slip roads at the M69 Junction 2 which would be constructed as part of the Proposed Development, is still significant. While the highways works, such as these slip roads that make up the associated development are not NSIPs, the Secretary of State considers that the NPSNN is relevant and material to her decision on the Application. Paragraph 4.66 of the NPSNN states that a decision-maker should not grant development consent unless they are satisfied that all reasonable steps have been taken, and will be taken, to minimise the risk of road casualties arising from the scheme. The Secretary of State considers that the evidence submitted during the examination and in response to the 10 September 2024 letter do not allow her to conclude this to be the case. She has therefore given both the potential impacts on the village of Sapcote and the inability to satisfy the test in the NPSNN substantial weight against the granting of the Order.

Narborough Level Crossing

77. The ExA recommended that the Secretary of State should give moderate negative weight against the Proposed Development to the increase in congestion and traffic delays caused by the barrier closure at the Narborough Level Crossing [ER 3.3.562] as a result of the Proposed Development. The ExA also concluded that the impacts of the increased barrier downtime on pedestrians who are not able to cross the stepped bridge over the railway would not advance equality of opportunity for those with the protected characteristics of age or disability [ER 5.4.10].

78. This matter is set out in paragraphs 72 – 74 of the 10 September 2024 letter, and paragraph 75 invited comments from the Applicant on the concerns raised by the ExA on the impact on ambulatory impacted pedestrians at the Level Crossing.

Applicant's Response

79. The Secretary of State has considered the Applicant's Narborough Level Crossing Report which states that given that only one train each way of passenger stopping services and services from the Proposed Development is allowed in any hour, the chance of trains from the Proposed Development and passenger stopping services overlapping is very limited. The report also sets out that chance of traffic failing to dissipate between Level Crossing closures is unlikely.

80. The Secretary of State notes that the Applicant has assessed the viability of providing a new bridge with lifts, but concluded that a lift would not materially alter the crossing time due to the need to divert to the lift, call it, use the lift, cross the bridge, and then call the other lift, use the lift and divert back to the footpath on the other side of the level crossing. The Applicant states that it would be easier to wait for the trains to pass at the Level Crossing. The Applicant also states that a new bridge would cost between £4.7m to £7.35m and would not be proportionate in terms of the minor additional crossing

delay time as a result of the Proposed Development or the minimal benefit it might afford in terms of time saved to a person with ambulatory issues. The Secretary of State also notes that the Applicant considered the possibility of retrofitting lifts, providing ramps and installing stair lifts but concluded that these would either not deliver any real benefits or were undeliverable.

Applicant's Proposed Further Enhancements

81. The Applicant has proposed the following further amendments to address the ExA's concerns on the impact on those waiting at Narborough Level Crossing:

- provision of improved waiting facilities at Narborough Station; and
- provision for improvements to the Customer Information Service to provide information to those seeking to catch trains.

82. The Applicant states that it has reviewed the options to reasonably and practicably mitigate the impact of barrier down times on those with protected characteristics of age or disability, including ambulatory impaired pedestrians.

Blaby District Council

83. BDC's [response](#) states that it considers the improvements proposed by the Applicant will make no practical improvements to address the impact of the increased barrier downtime on those with ambulatory issues. It also raised concerns regarding the location of the proposed waiting areas at Narborough Station, highlighting that those wanting to cross from the southern side of the Station would be required to walk 25 metres to and from the waiting facilities, and that those wanting to cross from the northern side of the station would be required to walk 50 metres to and from the waiting facilities.

The Secretary of State's Conclusion

84. The Secretary of State agrees with the Applicant that the probability of the down time of the barriers at the Level Crossing for a significant length of time is low. As explained by the Applicant, while it is possible for a freight train to overlap with a passenger train which would have led to a combined barrier downtime of 5 minutes 05 seconds, the chances of this happening are relatively small given that only one passenger stopping train and services from the Proposed Development train are permissible in any hour. In addition, the Secretary of State notes that the Applicant has been advised by the Office for Road and Rail that a level crossing assessment is required if a barrier down time exceeds 45 minutes in an hour, and the barrier down time at this location is significantly less than this, even in the worst case scenario, which could occur between the hours of 15.00 – 16.00, at 25 minutes 22 seconds. The Secretary of State also notes that Network Rail responded in support of the Application and to confirm that the Applicant has engaged with them on the network mitigations such as level crossings upgrades.

85. While the Secretary of State notes BDC's concerns that the modifications proposed by the Applicant do not address the fundamental issue of increased barrier

downtime as a result of the Proposed Development, she is satisfied that the Applicant has appropriately considered a range of possible mitigation to fully address any potential impacts on pedestrians with ambulatory disabilities. She agrees with the Applicant's conclusions on the measures identified by the Applicant as being either disproportionately costly or not resulting in any meaningful benefits over waiting for the level crossing to rise. The Secretary of State is therefore satisfied that the public sector equality duty has been complied with, and due regard has been given to the Equality Act 2010 in relation to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not.

Noise and Vibration

86. 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 of the criticisms submitted during the Examination.

87. As set out in paragraphs 100 – 103 of the 10 September 2024 letter, the Secretary of State has explored and agrees with the conclusions of the ExA in relation to noise and vibration, which included issues relating to the appropriateness of the Applicant's assessment, the presence of significant residual adverse effects and associated mitigation. The ExA concluded that there remained significant residual effects to a relatively small number of receptors which would weigh against the Proposed Development as this conflicts with paragraph 5.195 of the 2014 NPSNN [ER 5.2.26].

88. Further information was requested by the Secretary of State in relation to the submissions of Dr. David Moore (Dr Moore) and Mr William David Moore (Mr Moore) during the Examination at Deadline 8. These submissions 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]. At Deadline 8 of the examination, a third-party noise report was submitted by Dr Moore, with lower baselines for nighttime and daytime ambient noise levels than those measured by the Applicant, which interested parties suggested would alter the results of the noise assessment. The Deadline 8 noise assessment was undertaken at Billington Lakes, located 200m from the trackside. This is in comparison to the Noise Monitoring Position (NMP) that was 12m from the rail track in the Applicant's noise assessment and was said to be a representative distance for noise receptors at distances of 460m from the trackside. Due to the time constraints and procedural fairness, the ExA did not consider the Deadline 8 submissions in the Report, and the Applicant was

invited to respond to the noise report by the Secretary of State in the September 2024 letter.

89. On 20 December 2024, the Applicant responded to the submissions of Dr Moore and Mr Moore, the contents of which is summarised below:

- the Applicant gave context to the operational noise assessment which was based on British Standard 4142:2014+A1:2019 ('BS4142');
- the Applicant considered the noise data submitted by Dr Moore and Mr Moore to be inadequate, as the data collection did not occur over a 24-hour period over a weekday, weekend, or in term time;
- the interested parties' data did not align with longer term, annualised rail traffic data whereas it does;
- the Applicant concluded that its own data revealed a 5.8dB increase during the night, and a 3dB increase during the day compared to the data submitted by these interested parties; and
- the Applicant confirmed that the data had been validated against the DEFRA (2019) strategic noise mapping for annualised rail noise.

90. The Applicant assessed Dr Moore and Mr Moore's data despite its reservations regarding its validity and found that the Proposed Development would result in +1.7dB during the night, and up to +2.6dB during the daytime. The Applicant concluded that these results were permanent minor adverse effect and not materially different from the assessment conclusion of the ES (Chapter 10). The Secretary of State notes that the ExA and the local authorities found the approach to the operational noise assessment to be acceptable [ER 3.5.53] and that they made no further comments in relation to the Deadline 8 noise assessment. The Applicant concluded in the 20 December submission that even if the interested parties' dataset were to be utilised in the assessment, the Proposed Development would remain compliant with policy from a noise perspective.

91. Both Dr Moore and Mr Moore disagreed with the position of the Applicant in submissions in February 2025. In summary, both interested parties fundamentally disagreed with the conclusions drawn by the Applicant in the paragraph above, and highlight outstanding issues in relation to: the inflation of ambient noise levels; the subsequent invalidity of the Applicant's noise assessment (and the incorrect calculation of noise increase); the DEFRA Round 4 data supporting their claims, and; that the ExA's conclusions were incomplete without consideration of the Deadline 8 submission.

92. BDC and HBBC made no further comment on this point made in the Applicant's 20 December response.

93. The Secretary of State notes that the ExA [ER 3.5.142] gave moderate weight against the making of the Order in relation to noise and vibration, due to significant residual effects remaining which is in conflict with the NPSNN. This is without the consideration of the noise assessment at Deadline 8 and related submissions post-

examination. Having carefully considered the representations of Dr Moore and Mr Moore, the Applicant's comments and responses from other interested parties, the Secretary of State sees no reason to disagree with the ExA's conclusion and ascribes moderate weight against the making of the Order in relation to noise and vibration.

Plot 73

94. The ExA reported concerns regarding the impacts from the Applicant's approach for the acquisition of the main body of the site which has been to enter into legal agreements with the various freeholders. The ExA considered that if the site was not developed comprehensively, the construction of adjoining phases would have a harmful effect on occupiers who have not moved out which would be contrary to the peaceful enjoyment of their homes [ER 6.6.14]. The ExA therefore considered that a requirement be imposed to ensure that all the land was secured so that it is comprehensively developed [ER 7.4.92].

95. The Applicant states at paragraph 3.51 of their 20 December response that the terms of the option agreement with the landowner require it to serve notice to acquire Plot 73 before development may commence on the land shown coloured orange and coloured pink on the plan in the document titled 'Hinckley NRFI Appendix 11 - Plan 2 to Option Agreement'. The Applicant explained that the pink and orange land constitute the vast majority of the main site and this provision therefore means that the owners and occupiers of Plot 73 will not remain in situ whilst the development is underway on the neighbouring land. The Secretary of State is satisfied with the Applicant's explanation and agrees that no harmful effects of prevention of peaceful enjoyment would occur. She also notes the Applicant's 3 March update that it is in advanced discussions with the landowner in respect of the acquisition of this land. She therefore also agrees with the Applicant that the ExA's suggested requirement is not necessary.

THE PLANNING BALANCE

Matters Weighing in Favour of the Proposed Development

96. The ExA was satisfied that the following matters weighed in favour of the Proposed Development:

- The national need for the Development [ER 3.2.90] as well as the specific need for the Development in the southwest Leicestershire area [ER 8.2.7]. The ExA recommended that the need for the Proposed Development and choice of the site through the site selection process should carry substantial positive weight [ER 5.2.7]. The Secretary of State agrees.
- The significant job creation opportunities in the Leicestershire area from the Proposed Development [ER 5.2.28]. The ExA recommended that this should be given substantial weight in favour of the Proposed Development. The Secretary of State agrees.

- The removal of 83 million HGV miles from the road network which the Applicant estimates will result in a saving of approximately 70,120 kilotonnes of CO2 per annum when the Development operates at full capacity [ER 3.7.57]. The ExA recommended this should be given moderate weight in favour of the Development. The NPSNN recognises the crucial role rail transport plays in delivering reductions to pollution and congestion (paragraph 2.35, NPSNN) and the facilitating the transfer of freight from road to rail (paragraph 2.44, NPSNN). On this basis, the Secretary of State has therefore given this substantial weight in favour of the Order.
- The ExA recommended that the fact that the Development could be satisfactorily integrated into the local and wider railway network [ER 3.3.595] and the evidence of the major shift from road transport to rail should be given moderate weight in favour of the Proposed Development [ER 3.7.57]. The Secretary of State agrees.
- The ExA noted that with the secured mitigation there would be a small benefit to biodiversity and recommended a little weight in favour of the Proposed Development also noting that while the BNG was welcome it was given lesser weight as part would be provided off-site [ER 5.2.37]. The Secretary of State agrees.
- The ExA assessed that there was compliance with the Water Framework Directive and objectives of the River Basin Management Plan and gave a little weight in favour of the Order [ER 3.10.103]. The Secretary of State agrees.
- The ExA recommended that energy matters should carry a little positive weight on the basis that it does not meet the NSIP threshold for an energy project [ER 3.11.34]. Having considered the Applicant's response on this matter, the Secretary of State agrees that it is not appropriate to 'discount' the weight to be given to a proposed contribution to renewable energy generation on the basis that even more might be possible in a theoretical alternative scheme. The Secretary of State therefore considers that this should carry substantial positive weight in the planning balance.

Neutral Matters in the Planning Balance

97. The ExA recommended that the closure and diversion of PRowS, effects on the housing market, and geology and soils should be neutral in the planning balance [ER 5.6.9]. The Secretary of State agrees.

Matters Weighing Against the Proposed Development

98. As set out in this decision letter above, the Secretary of State considers that the following outstanding highways matters weigh substantially against the granting of the Order;

- the Applicant's failure to adequately assess the impacts at the M1 J21/M69 J3 [ER 5.2.12 and 5.5.5];
- impacts on the village of Sapcote as a result of HGVs re-routing through the village as a result of the slip roads at M69 Junction 2 to be constructed as part of the Proposed Development [ER 5.2. 11 and 5.2.18 and 5.6.6]; and
- the inability of the Proposed Development to comply with paragraph 4.66 of the NPSNN, which is considered a material consideration and states that consent should not be granted unless the Secretary of State is satisfied that all reasonable steps have been taken, and will be taken, to minimise the risk of road casualties arising from the scheme and to contribute to an overall improvement in the safety of the Strategic Road Network [ER 5.2.18].

The ExA recommended that the following issues should weigh against the granting of the Order:

- the other junctions identified in the Traffic and Transport section – little weight;
- overall increase in traffic on the networks – little weight;
- the Sustainable Travel Strategy (if amended in line with the ExA's recommended Order) – little weight;
- the severance of PRoWs between Elmeshorpe and Burbage Common – moderate weight;
- landscape and visual impacts – substantial weight;
- impacts from noise and vibration – moderate weight;
- loss of best and most versatile agricultural land – little weight;
- impacts on health – little weight;
- air quality impacts – little weight;
- impacts on cultural heritage– less than substantial harm to specific heritage assets;
- impacts from noise and vibration – moderate weight;
- cumulative effects - moderate weight [ER 5.6.7]

99. The Secretary of State remains in agreement with the ExA's conclusions on these issues and the weight it has recommended weight on each of these matters.

100. In relation to the impacts identified by the ExA on the occupiers of the Aston Firs site, the Secretary of State is satisfied that the ExA has adequately addressed the potential impacts as far as possible through the proposed changes set out in paragraph 25 above and she considers that this now carries a little weight in against the Order.

101. The ExA also recommended that if the Sustainable Transport Strategy and HGV Management Plan and Route Strategy are not amended in line with the ExA's recommended Order, they should also weigh substantially against the making of the Order [ER 5.6.10]. The Secretary of State has concluded, after taking into account the

Applicant's additional information and the comments from other interested parties, these matters carry little weight against the granting of the Order.

102. The Secretary of State has given the outstanding issues highlighted by National Highways and LCC relating to the Road Safety Audits for the Sapcote Enhanced Scheme and the proposed works at the M69 Junction 2 moderate weight against the Order.

The Secretary of State's Conclusion

103. As set out in paragraph 96 above, the Secretary of State is satisfied that there is a compelling need for the Proposed Development both nationally and in the south-west Leicestershire area, and that the creation of job opportunities, the facilitation of the transfer of freight from road to rail and the energy that will be produced by the Applicant for onsite use all carry substantial weight in favour of the Proposed Development. The Secretary of State has weighed these and the other matters detailed in paragraph 96 against the negative impacts that are expected to occur as a result of the Proposed Development (paragraphs 98 – 102 above), and in particular highlights the potential highways safety risk in the village of Sapcote, the non-compliance with the road safety requirements in the NPSNN and the lack of adequate modelling at the M1 J21/ M69 J3 (Junction 15). The Secretary of State takes the matter of highway safety extremely seriously and considers each of these negative highway safety impacts would by itself be serious enough to conclude that the negative impacts of the scheme outweigh the benefits. The Secretary of State has therefore concluded that the potential negative impacts outweigh the need for the Proposed Development and the expected benefits.

GENERAL CONSIDERATIONS

Equality Act 2010

104. The Public Sector Equality Duty requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following "protected characteristics": age; gender; gender reassignment; disability; marriage and civil partnerships; pregnancy and maternity; religion and belief; race; sex and sexual orientation.

105. The Secretary of State does not consider a decision to refuse the Application would lead to significant differential impacts on those with protected characteristics.

Natural Environment and Rural Communities Act 2006

106. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006 as amended by section 102 of the Environment Act 2021, and regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010 has had regard to the purpose of conserving and enhancing biodiversity and, in particular, to the United Nations Environmental Programme on Biological Diversity of 1992. In reaching a decision, the Secretary of State has had due regard to the duty of conserving and enhancing biodiversity

Human Rights Act 1998

107. The Secretary of State has taken account of the “Convention rights” listed in section 1 of the Human Rights Act 1998 in relation to the exercise of her functions in taking a decision on this Application. The Secretary of State does not consider that a decision to refuse the Application would be incompatible with any Convention right.

SECRETARY OF STATE’S OVERALL CONCLUSION AND DECISION

108. For all the reasons set out in this letter, the Secretary of State has decided to refuse development consent.

CHALLENGE TO DECISION

109. The circumstances in which the Secretary of State’s decision may be challenged are set out in Annex A of this letter.

PUBLICITY FOR THE DECISION

110. The Secretary of State’s decision on this Application is being publicised as required by section 116 of the Planning Act and regulation 31 of the 2017 Regulations.

Yours faithfully,

Gareth Leigh

ANNEX A

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Secretary of State's statement of reasons (this decision letter) is published on the Planning Inspectorate website at:

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/TR050007>

Please also copy any claim that is made to the High Court to the address at the top of this letter.

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).