

Document DCO 3.4

Schedule of Changes to the Draft DCO

FEBRUARY 2026

The East Midlands Gateway Phase 2
and Highway Order 202X and The East Midlands Gateway
Rail Freight and Highway (Amendment) Order 202X

The East Midlands Gateway Phase 2 and Highway Order 202X

SCHEDULE OF CHANGES TO THE DRAFT DCO (DOCUMENT DCO 3.4)

Version	Date	Status of Version
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Response to ExP's Initial Observations on Drafting of the dDCO

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General queries			
R6D1.	Drafting	<p>Definitions</p> <p>Definitions should only be set out in article 2 or paragraph 1 of schedule 2, as appropriate, if used in more than one provision. If not, then either should be defined within the relevant provision, or set out in full if used as an abbreviation.</p> <p>In article 2:</p> <p>"the 2010 Regulations" Only used in article 41</p> <p>"relocation works" Only used in article 34</p> <p>"traffic officer" Not used in dDCO.</p> <p>"tribunal" This term is only used as an abbreviation in article 45, in Schedule 12 it is used in full. Use in full in article 45 and delete from article 2.</p> <p>"tree preservation order" Only used in article 38.</p> <p>"trunk road" Of itself is only used in article 15 (although used as a</p>	<p>The DCO Applicant has reviewed the dDCO and made the appropriate changes in the dDCO submitted at Procedural Deadline A.</p>

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		<p>descriptor in schedules 8 and 13, and as part of the definition of 'strategic road network'). In any event, if defined in article 2, it does not then need be defined in schedule 13. These collectively should be reconciled.</p> <p>"water authority" Not used in dDCO.</p> <p>In schedule 2:</p> <p>"construction and environment management plan"</p> <p>Is also defined in article 2 and thus should not be defined in schedule 2 unless different (and explicitly so).</p> <p>"CTMP" Only used in requirement 11.</p> <p>"the design approach document"</p> <p>Other than schedule 16 is only used in requirement 7.</p> <p>"employment scheme" Only used in requirement 25.</p> <p>"HGV park" Only used in requirement 29.</p>	

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		<p>"highway works" Is also defined in article 2 and thus should not be defined in schedule 2 unless different (and explicitly so).</p> <p>"illustrative landscape masterplan" Only used in requirement 9.</p> <p>"lighting strategy" Only used in requirement 14.</p> <p>"relevant highway authorities" Not used in dDCO.</p> <p>"sustainable drainage statement" Other than defining 'sustainable drainage strategy' 'sustainable drainage statement' is only used in requirement 17 and therefore these should be rationalised and defined in requirement 17.</p> <p>"sustainable transport strategy" Term is only used in requirement 4 and thus should be defined there - this definition would not apply in</p>	

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		<p style="text-align: right;">schedule 15, unless relocated to article 2.</p> <p>"sustainable transport working group"</p> <p style="text-align: right;">Term is only used in requirement 4 and thus should be defined there - this definition would not apply in schedule 15, unless relocated to article 2.</p> <p>Please also check the schedule 13, protective provisions. If the same definition is used in article 2, there is no need for repetition.</p>	
R6D2.	Drafting	<p>Approvals</p> <p>Should all approvals be 'in writing', which could include electronic transmission? Would it make easier drafting if a single, new, provision was made within the order to this effect, and the dDCO amended as necessary?</p>	<p>The DCO Applicant is content to incorporate a new provision to clarify that all approvals are in writing and will permit electronic transmission. The DCO Applicant is considering how such wording can best accommodate existing drafting and avoid duplication. For example, 'electronic transmission' is defined in Article 44 (service of notices). The DCO Applicant's proposed wording and corresponding updating to the dDCO and Explanatory Memorandum (if required) will be provided at Deadline 2.</p>
R6D3.	Drafting	<p>Deemed approvals</p>	<p>The DCO Applicant has, where appropriate, incorporated provisions to give notice to a</p>

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		<p>Recent practice on transport DCOs is that where a provision includes a deemed approval if a discharging authority fails to respond within a relevant timeframe, such a notice must be included within the application.</p> <p>For example, in article 16 of The A46 Newark Bypass Development Consent Order 2025 includes:</p> <p style="padding-left: 40px;">"(5) Any application to which this article applies must include a statement that the provisions of paragraph (4) apply to that application."</p> <p>The applicants are asked to review the dDCO generally and the following provisions specifically:</p> <ul style="list-style-type: none"> • articles 9, 11, 13, 17, 19, 20. • schedule 13, part 1, paragraph 2 • schedule 13, part 2, paragraphs 4, 13 	<p>discharging authority in accordance with recent practice.</p> <p>Please note that additional notice has <u>not</u> been provided for Article 13(4) or Schedule 13 Part 1 Paragraph 4 because the stated procedure already includes steps requiring an additional notice and period to be given in the event of a failure to respond and before notice can be deemed to have been provided by the discharging authority.</p> <p>The DCO Applicant has also not included an amendment to Schedule 13 Part 2 Paragraph 4 at this time, because those protective provisions are currently under active discussion.</p>
R6D4.	Drafting	<p>Use of "and/ or"</p> <p>Under the guidance for the drafting of statutory instruments the term "and/or" should not be used.</p> <p>The applicants are asked to review the dDCO generally and the following provisions specifically:</p> <ul style="list-style-type: none"> • articles 18 	<p>The DCO Applicant has reviewed the dDCO and made the appropriate changes in the dDCO submitted at Procedural Deadline A.</p>

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		<ul style="list-style-type: none"> • schedule 1, Work Nos. 5, 21 • schedule 2, paragraph 1, definition of "employment scheme" (see also Ref No. 1) It is also used in the protective provisions in numerous occasions. 	
R6D5.	Drafting	<p>Potential typographic errors</p> <p>The ExP has identified the following potential typographic errors. The applicants are asked to review the dDCO generally and the following provisions specifically:</p> <ul style="list-style-type: none"> • article and paragraph numbers should be set out in bold text. • article 2, the definition of "the environmental statement", when referred to in schedule 16 as "environmental statement". • article 24, paragraph (7) line after secondary list in (a) is too far to left. • article 28, paragraph (2) replace "compulsory purchase order), the three year period mentioned in section 4" substitute" with "compulsory purchase order)", the three year period mentioned in section 4 substitute" (the quotation marks are possibly incorrect). 	<p>The DCO Applicant has reviewed the dDCO and made the appropriate changes in the dDCO submitted at Procedural Deadline A.</p>

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		<ul style="list-style-type: none"> • article 38 on three occasions "free" has been used instead of "tree". • schedule 2, requirement 11 in the list, each item should start with a lower case "a". • schedule 2, requirement 20 replace "reliant" with "relevant". • schedule 2, requirement 22(2) replace "lain" with "land". • schedule 2, requirement 27 replace "sqm" with "square metres". • schedule 2, part 2, paragraph 4, replace "(c)" with "2(c)". • schedule 9, second entry, column (2) requires a verb. • schedule 12, paragraph 4(4), in sub-paragraph (d), there should be a new line after "(common land),". • schedule 12, paragraph 4(5), replace "HA" with "11A". • schedule 14, paragraph 3, the sub-paragraph numbering is incorrect. 	

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		<ul style="list-style-type: none"> • schedule 14, paragraph 3(2) replace "rest— riction" with "restriction". • schedule 15, paragraph 1 replace "stablished" with "established". <p>Please note Schedule 13 has not been checked.</p>	
R6D6.	Drafting	<p>Tailpiece provisions and amendments</p> <p>Tailpiece provisions should not be included within requirements as they lead to uncertainty (see <i>Midcounties Co-operative Ltd v Wyre Forest DC</i> [2009] EWHC 964).</p> <p>The applicants are asked to review the dDCO generally and the following provisions specifically:</p> <ul style="list-style-type: none"> • schedule 2, requirements 3(1) and (2), 4(1) (there are 2 within this provision) and (7), 6, 7(2)(e), 8, 10, 16, 19(1), 22(3), 24, 26(4), 29(2). <p>The applicants may wish to consider a provision dealing with amendments generally (see, for example, requirement 20 of The A46 Newark Bypass Development Consent Order 2025). This may consequently involve redrafting of various provisions within the dDCO.</p> <p>Furthermore, the applicants have used "alter" and "vary" (and their derivatives) when "amend" (and its derivatives)</p>	<p>The DCO Applicant is content to incorporate a new provision dealing with amendments as approved in other made DCOs. The DCO Applicant's proposed wording and corresponding updating to the dDCO and Explanatory Memorandum (if required) will be provided at Deadline 2.</p>

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		<p>may be a better term. In some contexts, "alter" and "vary" could mean "omit" or "exceed the terms assessed".</p>	
R6D7.	Drafting	<p>Consistency of drafting</p> <p>The ExP has identified various areas where there is a lack of consistency of drafting of provisions.</p> <p>(i) Various requirements start in different forms, for example:</p> <ul style="list-style-type: none"> • "Prior to the commencement of each component of the authorised development ...", • "No part of the authorised development shall commence ..." • "None of the authorised development ..." <p>Please could the applicants ensure consistency across drafting as this would result in greater clarity. It is appreciated that different triggers may be required for different provisions.</p> <p>(ii) There are various different formulations relating to "working days". Some refer to public holidays, others to bank holidays and some to both and some are not defined. The use of a single, consistent, definition appropriately located would clarify matters.</p>	<p>The DCO Applicant has reviewed the dDCO and made the appropriate changes in the dDCO submitted at Procedural Deadline A.</p> <p>Please note that Schedule 13 contains protective provisions which are negotiated with undertakers and therefore differences will remain to reflect the wording required by each undertaker.</p>

Ref	Issue	Query	DCO Applicant's Response
		<p>The applicants are asked to review the dDCO generally and the following provisions specifically:</p> <ul style="list-style-type: none"> • schedule 2, all requirements. • schedule 2, part 2, paragraphs 1, 2, 4, 5 • schedule 13 	
R6D8.	Drafting	<p>Future proofing</p> <p>Could the applicants fully justify the phrase 'successor in function' or similar, since upon any re-organisation in function this will automatically apply. Alternative drafting could be considered to future proof any anticipated changes, perhaps using references to the relevant legislation, for example, for local planning authority reference to schedule 1 of the TCPA.</p> <p>The applicants are asked to review the dDCO generally and the following provisions specifically:</p> <ul style="list-style-type: none"> • article 2 definitions of "chief officer of police", "lead local flood authority", "local highway authority", "local planning authority" (which is incorrect as Leicestershire County Council is also a local planning authority for the area), "National Highways", "water authority". • schedule 2 definition of "employment scheme". 	<p>The DCO Applicant has reviewed the dDCO and made the appropriate changes in the dDCO submitted at Procedural Deadline A.</p>

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		<ul style="list-style-type: none"> schedule 13 definitions of "Severn Trent" and "Cadent". 	
R6D9.	Drafting	<p>Generic drafting</p> <p>The applicants are requested to review drafting of the dDCO to ensure it applies to the proposed development. Specific examples of potentially generic drafting which may not be correct include:</p> <ul style="list-style-type: none"> article 31(3). schedule 12, paragraph (8) in the insertion, paragraph 1, with the reference to "the whole or part of a house, building or factory". 	<p>The DCO Applicant has reviewed the dDCO. Article 31(3) is not required and has been deleted. The DCO Applicant's preference is to retain the wording in Schedule 12 to future proof the dDCO (i.e. whilst the DCO Applicant is not aware of any house, building or factory on land which will be the subject of compulsory purchase, that position could change over the life of the DCO).</p>
Specific queries			
R6D10.	Preamble	<p>Drafting</p> <p>(i) As the applicants will be aware, the panel consists of three members and should be amended as appropriate.</p> <p>(ii) In the last paragraph, there is a section in square brackets. The applicants are asked to seek to conclude on this as appropriate.</p>	<p>(i) The DCO Applicant has made this change in the draft DCO submitted at Procedural Deadline A.</p> <p>(ii) The DCO Applicant has completed the drafting and removed the square brackets.</p>
R6D11.	Article 2 - Interpretation	<p>Definition of "maintain"</p>	<p>The definition of "maintain" to include improve accords with other made DCOs. The recently made The A46 Coventry Junctions</p>

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		<p>In article 2 of the dDCO in the definition of "maintain" includes the term "improve". Given one person's improvement is another's making worse this is too subjective a term and equally could lead to development taking place that is outside the terms assessed in the environmental statement.</p> <p>Could the applicants please reconsider this or fully justify this definition.</p>	<p>(Walsgrave) Development Consider Order 2026 provides that "maintain" includes improve. Indeed, the definition of "maintain" is arguably broader albeit that the scope of works which can be undertaken are limited to those which do not give rise to materially new or materially different environmental effects to those identified in the environmental statement. It is therefore proposed to adopt that wording and the definition in the dDCO has been updated accordingly in the version submitted at Procedural Deadline A.</p>
R6D12.	Article 5 – Authorisation of use	<p>Definitions of use</p> <p>The applicants are asked to comment on the following:</p> <p>(i) "Logistics" is not a term normally used in planning legislation, rather 'warehouse' or 'storage or distribution centre' (see class B8 of the Town and Country Planning Use Classes Order 1987). It is noted that 'warehouse' is used in Works No. 1, requirements 10, 15, 21 and 25 and schedule 15. Is there any ambiguity in the term "logistics"?</p> <p>(ii) Should the authorised use be restricted to remove permitted development rights to allow a change of use? Perhaps add "only" after "manufacturing uses"?</p>	<p>(i) The term "logistics" is consistent with the Section 35 Direction (Document DCO 6.1B) made by the Secretary of State under section 35(1) of the Planning Act 2008. The term has also been recognised in planning policy (see paragraph 86(c) of the Framework (December 2024)).</p> <p>(ii) The DCO Applicant does not agree that the authorised development should be restricted by removing permitted development rights. The addition of "only" in article 5 would conflict with the remainder of that article which authorises use for "any purposes for which such parts of the authorised development is designed and for any purposes ancillary to those purposes".</p>

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		(iii) Could the applicants please explain what, in strict planning terms, the difference is between "manufacturing" and "advanced manufacturing"?	(iii) The terms of "manufacturing" or "advanced manufacturing" are not defined in statute or by policy. Both uses falls generally within Class B2 (general industry) of The Town and Country Planning (Use Classes) Order 1987 (note that some advanced manufacturing uses might fall within Class E(g)(ii) (research and development) but this is not proposed in this case). The Government has previously distinguished the term "advanced manufacturing" from the general term "manufacturing" as production processes that rely on cutting-edge science and technology research. This includes the development of manufacturing techniques for specific new technologies, such as plastic electronics and composites. It also includes generic high-tech processes, such as automation and robotics, which can give a range of products a competitive advantage in terms of cost or environmental impact. The term 'advanced' refers to the manufacturing process, rather than the product.
R6D13.	Article 7 – Benefit of Order	<p>Transfer of Benefit</p> <p>Could the applicants please set out those elements of the proposed development that it considers likely would be undertaken by those with the benefit of article 7(4) of the dDCO?</p>	The DCO Applicant confirms that at present the only works likely to be undertaken by others are statutory undertakers' works which those statutory undertakers generally prefer to undertake themselves given the sensitive nature of their apparatus.

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R6D14.	Article 8 – Street works and Article 9 – Power to alter layout, etc., of streets	<p>Ensuring elements post works are fit for purpose</p> <p>The ExP notes that article 8(1)(f) and (g) and article 9(1)(c) would allow the applicants to reduce the width of various elements within the street. Given that each element is likely to be needed to be retained for its use, could the applicants explain how the provision would ensure that any remaining element is still fit for purpose?</p>	<p>Any works undertaken pursuant to articles 8 and 9 are regulated by the protective provision in favour of the relevant street or highway authority as set out in Schedule 13 of the dDCO. In addition, article 9 is restricted and the power may only be exercised with the street authority's consent. The protections provided for in Schedule 13 and article 9 ensure that post works are fit for purpose.</p>
R6D15.	Article 9 – Power to alter layout, etc., of streets	<p>Effect on SRN</p> <p>In its RR [RR-022] NH refers to an alleged quote from the EM. However, the ExP has not been able to find this quote. Could the applicants please confirm those streets which the article is to apply to and whether this should be set out in an individual schedule?</p>	<p>The DCO Applicant is also unable to identify the alleged quote. The article does not relate to private streets alone.</p> <p>Article 9 (and 8 which should be read alongside it) are standard provisions which appear in many made DCOs. The purpose of article 9 is to ensure that, with the street authority's consent, works can be undertaken to any street within the Order limits. It is aimed at providing flexibility rather than being prescriptive as to which streets will be subject to the power. It is intended to supplement article 8 which is prescriptive as to which streets it affects because the consent of the street authority is not required.</p> <p>The DCO Applicant can confirm that all works to the SRN will be undertaken under article 8</p>

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			(being the streets identified in Schedule 3 of the dDCO).
R6D16.	Article 10 – Permanent stopping up of streets	<p>Clarification</p> <p>In article 10(3) when a street is stopped up under the article, under (b), where the undertaker owns land on both it may appropriate and use that street for the proposed development. Could the applicants please clarify the situation where the undertaker only owns land on one side?</p>	The DCO Applicant confirms that the situation will not arise. Where it is proposed to stop up under this article, the DCO Applicant will first take steps to ensure that it owns or has acquired the land on both sides of the street.
R6D17.	Article 13 - Accesses	<p>Accesses</p> <p>The ExP's reading of this provision would allow new accesses to the SRN. In its RR [RR-022] NH states that it understands that these are not being proposed. Could the applicants please respond to this point, and, if appropriate, reword the provision to exclude the SRN.</p>	The DCO Applicant confirms that there are no new permanent / replacement accesses from private land to/from the SRN. However, it is anticipated that temporary access will be required to facilitate highway works on the SRN. The DCO Applicant therefore wishes to retain the provision to ensure flexibility.
R6D18.	Article 15 – Classification of highways	<p>Classification of local highways</p> <p>As set out, article 15(2) would only relate to highways falling within the SRN. Should there be an equivalent provision relating to highways within the LHN?</p>	There are no new local roads which are to be provided or required to be classified. The DCO Applicant does not therefore consider that an equivalent provision is required.
R6D19.	Article 18 – Agreements with highway authorities	<p>Signage</p> <p>The ExP notes that article 18 does not include the erection of signage in connection with the approved</p>	The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A to provide for this.

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		development. Given that some of the signage on the network is to be amended, should this also be included?	
R6D20.	Article 19 – Discharge of water	<p>Discharge of water</p> <p>(i) Could the applicants explain how article 19(1) is compatible with the implementation of sustainable drainage systems?</p> <p>(ii) Could the applicants comment on whether this provision should prevent the discharging of surface water into any foul or combined sewer or drainage system?</p>	<p>(i) Article 3 of the dDCO requires the DCO Applicant to construct the authorised development in accordance with the provisions of the dDCO and the requirements. The powers under Article 19(1) are subject to the limitations in sub-articles (3) to (6) and requirements 16 and 17 which regulate surface water run-off and secure the delivery of sustainable drainage systems.</p> <p>(ii) Discharge into a public sewer or drain is subject to consent of the owner of the apparatus (Article 19(3)). Foul water drainage is also regulated by requirement 18 and is a pre-commencement requirement.</p>
R6D21.	Article 20 – Authority to survey and investigate land	<p>Nature of survey</p> <p>In The A46 Coventry Junctions (Walsgrave) Development Consent Order 2026 the SoS amended the equivalent provision to add include a new paragraph (3), which requires any notice under paragraph (2) to indicate the nature of the survey or investigation intended and paragraph (1) was also been amended as the reference to land "which may be affected" was considered too imprecise.</p>	The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A to provide for this.

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		Should this provision be similarly amended, and if not this, should be explained both in response to this question and in the EM.	
R6D22.	Article 21 - Guarantees in respect of payment of compensation	<p>Drafting</p> <p>In article 21(4) to ensure that the compensation is payable, could the applicants confirm whether the provision should mandate, that is use "must be", against the guarantor or provider of security?</p>	The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A to provide for this.
R6D23.	Article 24 – Private rights	<p>Private rights</p> <p>(i) Under article 24(1) third party rights are extinguished from the dates set out in subparagraphs (a) and (b). Could the applicants please explain how this provision would extinguish rights of third parties on land which is owned by the undertaker, given that neither sub-paragraphs (a) and (b) would apply?</p> <p>(ii) Should a revised provision result in additional rights sought, could the applicants please consider how this would be appropriately considered within the examination?</p>	<p>(i) The DCO Applicant has amended the provisions at article 24(3) to clarify that the rights of third parties will be extinguished upon commencement of any activity authorised by the dDCO.</p> <p>(ii) The DCO Applicant is considering to what extent, if any, the clarity provided at (i) above, represents a change that results in additional rights being acquired.</p>
R6D24.	Article 26 – Compulsory acquisition of land – incorporation	<p>Drafting</p> <p>The ExP wonders whether there should be explicit reference to a replacement of "compulsory purchase order" within the relevant provisions of the Acquisition of</p>	The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A to provide for this.

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	of the minerals code	Land Act with "The East Midlands Gateway Phase 2 and Highway Order 20[]". The ExP appreciates that article 29 does make some provision, but is not necessarily sure it covers the incorporation of the minerals code.	
R6D25.	Articles 32 and 33 – Temporary use of land	<p>Drafting</p> <p>The ExP wonders whether there should be provision within articles 32 and 33:</p> <ul style="list-style-type: none"> (i) to deal with any disputes over the condition of the land when it is returned to the owner following the period of any temporary possession (ii) to make it explicit that land could be temporarily possessed on more than one occasion. (iii) Should the provision explicitly make clear that it would not allow the compulsory acquisition of land or rights? (iv) Should a revised provision result in additional rights sought, could the applicants please consider how this would be appropriately considered within the examination? 	<p>(i) Article 45 (Arbitration) of the dDCO will apply to any dispute over the condition of the land when it is returned to the owner following any period of temporary possession. The DCO Applicant considers that arbitration is the most suitable means to resolve any disputes.</p> <p>(ii) The article is based on the model provisions and is consistent with other made DCOs, none of which include the wording proposed by the ExA.</p> <p>(iii) Article 32(8) of the dDCO provides that, unless specifically stated in the book of reference and article 22 (compulsory acquisition of land), the undertaker may not compulsorily acquire the land referred to in paragraph (1) of article 32.</p> <p>(iv) The DCO Applicant does not anticipate that additional rights will be required.</p>
R6D26.	Article 35 – No double recovery	<p>Justification of provision</p> <p>The ExP notes that the SoS has removed this provision in several recently made DCOs. The applicants are</p>	The DCO Applicant is not aware of any DCOs where this provision has been deleted. The wording appears in the recently made The A46 Coventry Junctions (Walsgrave)

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		therefore asked to explicitly explain why this is required both in response to this question and in the EM.	Development Consider Order 2026. The provision is required to ensure that compensation is not payable both under this Order and any other enactment, contract or other rule of law. It follows the well-established principle of equivalence that a claimant is compensated for no more and no less than their loss. The DCO Applicant will provide further detail in the updated Explanatory Memorandum submitted at Deadline 2.
R6D27.	Article 38 - Felling or lopping or trees and removal of hedgerows	<p>Justification of provision</p> <p>(i) Could the applicants please comment on the distance from the Order limits of 25 metres (m) set out to allow works to trees and hedgerows. The ExP notes that general advice from NE is that 15m is sufficient buffer to ensure ancient woodland is not affected. Given there is no such resource here, any distance outside the application site will need to be fully justified both in response to this question and in the EM.</p> <p>(ii) If any distance outside the Order limits were to be approved, how would those who might be affected by these works be aware that this were to happen? The ExP is concerned about the Human Rights aspects of this.</p> <p>(iii) Should a revised provision result in additional rights sought, could the applicants please consider</p>	<p>(i) The DCO Applicant is considering the necessary distance and will provide further detail and justification in the updated Explanatory Memorandum submitted at Deadline 2.</p> <p>(ii) The article is based on article 39 of the model provisions and is consistent with other made DCOs, which do not require notice to be given. The power is further subject to exceptions and restrictions, including that the power may only be exercised where the tree, shrub or hedgerow is causing an obstruction or interference or constituting a danger. Compensation is payable in respect of any losses or damage.</p> <p>(iii) The DCO Applicant does not anticipate that additional rights will be required.</p>

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		<p>how this would be appropriately considered within the examination?</p> <p>(iv) Are the applicants aware of any hedgerow within 25m of the Order limits which would be defined as "important" for the purposes of The Hedgerows Regulations 1997 or an "important hedgerow" for the purposes of The Management of Hedgerows (England) Regulations 2024? If so, could this please be identified on a plan, along with the reasoning behind why the applicants hold that view.</p>	<p>(iv) The DCO Applicant is not aware of any hedgerow within 25m of the Order limits which is "important".</p>
R6D28.	Article 38 - Felling or lopping or trees and removal of hedgerows	<p>Drafting</p> <p>In The A46 Coventry Junctions (Walsgrave) Development Consent Order 2026 the SoS amended the draft DCO to require the undertaker to take steps to avoid a breach of the provisions of the Wildlife and Countryside Act 1981. Should a similar provision be provided for within this dDCO?</p>	<p>The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A to provide for this.</p>
R6D29.	Article 43 - Certification of plans and documents	<p>Local planning register</p> <p>Given, as evidenced by the change to the EMG1 scheme, it is proposed that changes may be sought under the TCPA on land the subject to this application, should copies of the certified plans and documents and any approvals under requirements be included within the</p>	<p>The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A to provide for this.</p>

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		local planning register? If so, could the dDCO be amended to this effect.	
R6D30.	Article 43 - Certification of plans and documents	<p>Amended plans</p> <p>Should this provision include for the situation where the SoS's decision requires that a plan or document is amended? See for example, article 50(2) of The A46 Coventry Junctions</p>	The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A to provide for this.
R6D31.	Article 45 - Arbitration	<p>Justification of provision</p> <p>Given the ExP considers that it is highly unlikely that the SoS would allow arbitration on a matter for which they are the decision maker, should article 45 be amended to exclude any matters for which the SoS is the decision maker?</p>	The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A to exclude any decisions of the Secretary of State.
R6D32.	Drafting of definitions	<p>Schedule 1 – Work No. 1, Schedule 2 – requirements 4, 15, 28, and 29</p> <p>Could the applicants please reconsider the terminology "ancillary buildings" or ensure that it is fully defined. At present it could be considered that this lacks precision. The applicants may wish to distinguish between 'ancillary' buildings or uses and 'incidental' buildings or uses.</p>	The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A to define "ancillary buildings".
R6D33.	Drafting of definitions	<p>Schedule 1 – Work Nos. 2, 6 and 10</p>	The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A

Ref	Issue	Query	DCO Applicant's Response
		<p>The ExP notes that there is no definition of:</p> <ul style="list-style-type: none"> • "toucan crossing" • "lane drop" <p>within this schedule and is concerned whether these terms are sufficiently clear.</p>	<p>to define "toucan crossing" and better describe what is meant by "lane drop".</p>
R6D34.	Drafting	<p>Schedule 1 – Work No. 18(b)</p> <p>This work uniquely has the phrase within it "maintained by the local highway authority". Could the applicants please explain why this is necessary within a description of works?</p>	<p>The DCO Applicant confirms that the wording is provided merely as a descriptor to differentiate between the strategic road network and the local highway network.</p>
R6D35.	Schedule 2 – requirement 6	<p>Definition</p> <p>The ExP considers that the term "relevant body" is not clear. Is it supposed to refer to both highway authorities or the Secretary of State, or any combination of these?</p>	<p>The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A to refer to "relevant highway authority" being a defined term.</p>
R6D36.	Schedule 2 – requirement 7	<p>EV charging points and fence adjacent to A453</p> <p>(i) The ExP wonders whether the details of the location and quantum of electric charging points for vehicles should be included in the list in subparagraph (2), or whether the requirements of the Building Regulations would provide sufficient reassurance? It is noted that currently the Sustainable Transport Strategy is not a certified</p>	<p>(i) The provision of electric vehicle charging points is provided for within Works Nos. 1, 3 and 4. The requirements of the Building Regulations will apply to ensure that the relevant minimum quantum of points is provided as part of the authorised development. The DCO Applicant notes however that the Sustainable Transport Strategy confirms their intention to provide a</p>

Ref	Issue	Query	DCO Applicant's Response
		<p>document, nor is it secured in the dDCO. Should the EV chargers have a specified minimum capacity?</p> <p>(ii) When it first read sub-paragraph (2)(o) the Exp read this as meaning that fences had to be a minimum of 3 metres high. Would this be better set out as "which must not exceed 3 metres in height above ground level"?</p>	<p>greater number of points than that required by Building Regulations. The DCO Applicant will review and, as appropriate, provide a commitment in the next draft dDCO submitted at Deadline 2.</p> <p>(ii) This change has been made in the dDCO submitted at Procedural Deadline A.</p>
R6D37.	Schedule 2 – requirement 10	<p>Replanting of failed landscaping</p> <p>Could the applicants explain why requirement 10(4) is required given its obligations should be covered within the landscape and management plan?</p>	<p>The wording was included following feedback received from North West Leicestershire District Council during statutory consultation on the DCO application for specific wording to be included in the dDCO. The DCO Applicant agrees that the wording could be removed.</p>
R6D38.	Schedule 2 – requirement 11	<p>Drafting</p> <p>Could the applicants please look at the drafting of this requirement. The length of the first sentence in sub-paragraph (1) means that the meaning becomes unclear. This will also apply to elements of sub-paragraph (2).</p>	<p>The DCO Applicant has revised the wording of the requirement in the dDCO submitted at Procedural Deadline A.</p>
R6D39.	Schedule 2 – requirement 12	<p>Drafting</p> <p>Could the applicants please explain why the phrase "in advance and" is required.</p>	<p>The DCO Applicant has deleted the wording in the dDCO submitted at Procedural Deadline A.</p>

Ref	Issue	Query	DCO Applicant's Response
R6D40.	Schedule 2 – requirement 14	<p>Lighting restrictions</p> <p>(i) Could the applicants please consider re-drafting requirement 14(1) to ensure that the details to be approved include means of operation (whether manually switched, or on proximity switching) and the hours of operation?</p> <p>(ii) Could the applicants please explain why requirement 14(3) is necessary given the proposed development does not involve any gantry cranes?</p>	<p>(i) The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A.</p> <p>(ii) The DCO Applicant has deleted the wording in the dDCO submitted at Procedural Deadline A.</p>
R6D41.	Schedule 2 – requirement 18	<p>Drafting</p> <p>The applicants are asked to comment as to whether the term "foul water strategy" should be defined as regards its purpose. This term is only used in this requirement. However, it is noted that 'a foul water management plan' is also referred to in requirement 11.</p>	<p>Requirement 18 requires approval of a foul water drainage strategy for the permanent / operational phase of the development. The foul water management plan referenced in requirement 11 relates to the construction phase only.</p>
R6D42.	Schedule 2 – requirement 19	<p>Out-of-hours working and Drafting</p> <p>Could the applicants please comment on the following:</p> <p>(i) In requirement 19(a) it is noted that any 'out-of-hours' highways works are only to be notified to the local planning authority. Should these be approved?</p>	<p>(i) Pre-planned construction works to highway infrastructure will be agreed with the relevant highway authority rather than the local planning authority. It is commonplace for such works to be undertaken out of hours to minimise disruption to the road network.</p> <p>(ii) The DCO Applicant has revised the wording to refer to "significant noise or</p>

Ref	Issue	Query	DCO Applicant's Response
		(ii) Given "adverse impact" is a subjective term and therefore lacks precision, should another term be used in requirement 19(1)(c)?	vibration effects" in the dDCO submitted at Procedural Deadline A.
R6D43.	Schedule 2 – requirement 20	<p>Drafting</p> <p>Could the applicants please justify the need for the provision in the second sentence of this requirement, and, if necessary amend the drafting for precision; "if required" is not precise and leaves room for interpretation.</p>	The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A.
R6D44.	Schedule 2 – requirement 21	<p>Drafting and 'hook-ups' for HGVs with chiller units</p> <p>(i) Could the applicants please explain how HGV chiller units are to be used "on" any of the warehouses or other buildings? Could the applicants please consider revised drafting to differentiate noise producing plant on buildings and that otherwise on site.</p> <p>(ii) Could the applicants justify the drafting of the following as they would appear to lack precision:</p> <ul style="list-style-type: none"> • "The assessment will consider noise from the proposed plant and machinery to demonstrate compliance with government and local policy on noise". • "subject to health and safety requirements". 	<p>(i) The DCO Applicant has updated the wording of requirement 21 in the dDCO submitted at Procedural Deadline A to differentiate between noise from plant on buildings and other plant on site.</p> <p>(ii) The DCO Applicant has updated the wording of requirement 21 in the dDCO submitted at Procedural Deadline A to improve its precision.</p> <p>(iii) The term "broadband" should be given its every day meaning and it is not considered necessary to define it. The DCO Applicant has updated the dDCO submitted at Procedural Deadline A to refer to "broadband or white noise reversing alarms".</p>

Ref	Issue	Query	DCO Applicant's Response
		<p>(iii) Should "broadband" be defined. Different terminology (white noise) is used in the construction environmental management plan [APP-074], paragraph 6.7].</p> <p>(iv) NWLDC in its RR [RR-003] notes that it would seek 'hook-ups' for HGV chiller units to minimise noise. Could the applicants please respond to this request? Equally, should this be co-ordinated with EV charging as set out through requirement 7? Should any hook-ups be referred to in the relevant works in schedule 1 and requirement 7?</p>	<p>(iv) The DCO Applicant is considering NWLDC's request and will liaise with them in respect of the same. Any changes to the dDCO agreed will be submitted in the next draft of the dDCO.</p>
R6D45.	Schedule 2 – requirement 22	<p>Drafting</p> <p>(i) Could the applicants please look at the drafting of this requirement. The length of the first sentence in sub-paragraph (1) results in the meaning becoming unclear.</p> <p>(ii) Should reference be made to any successor document to the LCRM?</p> <p>(iii) Could the applicants explain why the words "prepared and" are necessary in sub-paragraph (2)?</p> <p>(iv) In sub-paragraph (3) is the phrase "on that localised area of land within the Order limits" necessary the second time it occurs?</p>	<p>(i) and (ii) The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A.</p> <p>(iii) The words "prepared and" have been deleted in the dDCO submitted at Procedural Deadline A.</p> <p>(iv) The DCO Applicant has revised the wording in the dDCO submitted at Procedural Deadline A.</p>

Ref	Issue	Query	DCO Applicant's Response
R6D46.	Schedule 2 – requirements 23 and 24	<p>Drafting and definitions</p> <p>(i) Could the applicants please justify the use of the phrase "or their approved agent" both times it occurs in requirement 23. Those working on behalf of the undertaker are normally assumed to be working as if they are the undertaker.</p> <p>(ii) Could the applicants please look at requirement 23(1)(b) as it appears rather long. Could this be subdivided for clarity?</p> <p>(iii) The reference to the "site waste management plan" is the only time it occurs in the dDCO. Should this be defined? Could a draft please be submitted into the examination and included as a certified document.</p> <p>(iv) Is the reference to "a scheme for waste management" in requirement 24 the same as the "site waste management plan" referred to in requirement 23? If so, can the drafting be amended as appropriate.</p>	<p>(i) The wording of the requirement, including the term "or their approved agent" is consistent with the same requirement in the EMG1 DCO.</p> <p>(ii) Requirement 23(1)(b) has been subdivided to improve clarity.</p> <p>(iii) A Site Waste and Materials Management Plan (SWMMP) has been submitted with the DCO Application (Document DCO 6.18E) [APP-190]. The reference in the requirement is to enable the local planning authority to request a specific site waste management plan as part of the verification investigation report if it is required.</p> <p>(iv) The scheme in requirement 24 relates to waste management during the operational phase whereas requirement 23 must be discharged before use commences. Waste management during the operational phase will depend on the precise uses and occupiers of each component of the development. To provide further clarity, however, the DCO Applicant has amended requirement 24 to reference the SWMMP.</p>

Ref	Issue	Query	DCO Applicant's Response
R6D47.	Schedule 2 – requirement 26	<p>Approvals</p> <p>Should approval of the operation of the community liaison group be in writing like other provisions within this schedule?</p>	<p>Paragraph (3) of requirement 26 has been updated to require the protocol for the operation of the group to be agreed in writing.</p>
R6D48.	Schedule 2 – requirement 27	<p>Justification, definitions and drafting</p> <p>(i) Should mezzanines be specifically defined as to what they are and how they would be used?</p> <p>(ii) In planning terms, a main use also allows ancillary and incidental uses. Should the use be further defined and clarified, noting the definition of Class B8 in The Town and Country Planning (Use Classes) Order 1987 and associated case law relating to restrictions of use?</p> <p>(iii) Should the quantum of mezzanines be distributed proportionately with the main floorspace across the units around the main site?</p> <p>(iv) NH in is RR [RR-022] has set out an alternative wording for this requirement. Taking into account the queries set out above, do the applicants have any comments to make on this? If they does not agree, they should set out its detailed explanation.</p>	<p>(i) The term "mezzanine" should be given its everyday meaning.</p> <p>(ii) – (iv) The DCO Applicant is in discussions with National Highways and Leicestershire County Council about the wording of requirement 27. The DCO Applicant has agreed the wording proposed by National Highways in its relevant representation [RR-022] but that wording has not yet been agreed by Leicestershire County Council. The wording has therefore not been included in the dDCO submitted at Procedural Deadline A. Instead, updated wording will be provided in the dDCO submitted at Deadline 2.</p>

Ref	Issue	Query	DCO Applicant's Response
R6D49.	Schedule 2 – requirement 28	<p>Maintenance of community park</p> <p>Could the applicants please justify the phrase "or procure the management and maintenance of the community park"? Complying with this could mean that although procured, the actual management and maintenance does not need to take place.</p>	<p>Whilst the DCO Applicant disagrees that the term "procure" would operate in the way suggested by the ExA, it proposes that the word "procure" be changed to "secure". Paragraph (b) of requirement 28 should then be read as a whole meaning that any failure to manage and maintain the community park in accordance with the approved management and maintenance scheme will be a breach of requirement 28.</p>
R6D50.	Schedule 4 – Streets to be permanently stopped up for which a substitute is to be provided Schedule 5 – Public Rights of Way Schedule 6 – Private Means of Access	<p>Access and Rights of Way plans</p> <p>In line with the s51 advice issued when the application was accepted the applicants have submitted revised access and rights of way plans. Could the applicants please ensure that the relevant references in schedules 4, 5 and 6 of the dDCO are updated as necessary to ensure consistency.</p>	<p>The DCO Applicant confirms that Schedules 4, 5 and 6 of the dDCO are correct.</p>
R6D51.	Schedule 8 – Speed limits	<p>Potential drafting errors</p> <p>In the reference to the change of The M1 Motorway (Junctions 23A to 25) (Variable Speed Limits) Regulations 2018 as amended, insert "in the Schedule, "</p>	<p>The DCO Applicant has inserted the words "In the Schedule," before "in paragraph 5(b)" in the dDCO submitted at Procedural Deadline A. The insertion of "and" at the end of (iii) is</p>

Ref	Issue	Query	DCO Applicant's Response
		<p>before "in paragraph 5(b)", and in and replace the last insert with:</p> <p>"and</p> <p>(iv) the carriageway from the northbound carriageway of the M1 to the westbound carriageway of the A50 beginning at the diverge from the northbound carriageway and ending at a point 255 metres north of the tip of the nose at the diverge."</p> <p>This effectively is to add an "and" at the end of entry (iii).</p>	<p>unnecessary as it is already provided for within the existing text.</p>
R6D52.	Schedule 9 – New Traffic Regulation Orders	<p>Drafting and justification</p> <p>Could the applicants explain why, in the first row, there is reference to "waiting" only and not "waiting and parking" or just "parking"?</p>	<p>The DCO Applicant confirms that the convention is to refer to "waiting" as no waiting includes no parking.</p>
R6D53.	Schedule 12 – Modification of compensation enactments	<p>Drafting</p> <p>Could the applicants please justify the drafting of the "acquiring authority" in the insertion provided in paragraph 2(2)? Under article 26, "acquiring authority" is replaced by "the undertaker". While schedule 12 relates to article 23, it may be that this needs to be looked at in the round.</p>	<p>The use of the term "acquiring authority" is consistent with the terms used in the Land Compensation Act 1961. Adopting the term "undertaker" would require further modifications to that Act. The proposed modifications and use of "acquiring authority" is consistent with other made DCOs.</p> <p>Article 26 seeks to modify Schedule 2 (minerals) of the Acquisition of Land Act 1981 and should be read standalone. Because the modification relates only to Schedule 2 of that</p>

Ref	Issue	Query	DCO Applicant's Response
			Act, the use of the term "undertaker" can be used as it does not create the need for further modifications.
R6D54.	Schedule 15 – Sustainable Transport Working Group	<p>Drafting</p> <p>(i) In paragraph 1, given there is only one district planning authority within administrative area the Order limits; should this be redrafted?</p> <p>(ii) In paragraph 3(8) is "election" the correct term, or should it be "request"?</p> <p>(iii) In paragraph 5(3) is there a need for both serving notice by email and recorded delivery post?</p>	<p>(i) and (ii) The DCO Applicant has made these changes in the draft DCO submitted at Procedural Deadline A.</p> <p>(iii) The DCO Applicant has amended the wording in the draft DCO submitted at Procedural Deadline A to refer to service of notice by email only.</p>
R6D55.	Clarity	<p>Explanatory Memorandum</p> <p>The applicants are asked to review the EM to explain why each provision within each proposed Order, including articles and requirements, is required in the particular circumstances of the proposed development. For requirements this should concentrate on the six tests set out in paragraph 4.11 of the NNNPS and paragraph 57 of the Framework. The EM at present concentrates on what each provision would achieve. Where the applicants are relying on specific precedent provisions, then precise details of that precedent should be set out, that is citing the relevant individual provision reference.</p>	The DCO Applicant is reviewing the draft Explanatory Memorandum and will submit an updated version at Deadline 2.

APPENDIX

ABBREVIATIONS

The following terms shall have the following meanings:

dDCO	Draft Development Consent Order [APP-012D]
EM	Explanatory Memorandum [APP-013D]
EV	Electric vehicle
ExP	Examining Panel
Framework	National Planning Policy Framework
HGV	Heavy goods vehicle
LCC	Leicestershire County Council
LHN	Local highway network
NWLDC	North West Leicestershire District Council
NE	Natural England
NH	National Highways
NNNPS	National Networks National Policy Statement
m	metre
RR	Relevant representation
SoS	Secretary of State
TCPA	Town and Country Planning Act 1990

Any capitalised terms used in this document which are not defined in the table above shall have the same meaning as in the Glossary accompanying the DCO Application (DCO 6.1A).