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Applicants' Response to Deadline 1 Submissions

APRIL 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 and The East Midlands
Gateway Rail Freight and Highway (Amendment)
Order 202X**

**APPLICANTS' RESPONSE TO DEADLINE 1
SUBMISSIONS**

(DOCUMENT DCO 7.12 / MCO 7.12)

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1 Introduction

- 1.1 This document relates to the applications for a second phase at East Midlands Gateway Logistics Park (EMG1), being an application for a Development Consent Order (DCO) made by SEGRO Properties Limited (DCO Applicant) and an application for a Material Change Order (MC) made by SEGRO (EMG) Limited (MCO Applicant). The DCO Applicant and the MCO Applicant are together the "Applicants".
- 1.2 This document has been prepared by the Applicants to set out their response to the submissions made by interested parties submitted to the Examining Panel (ExP) at Deadline 1. This document is submitted at Deadline 2 of the Examination.

2 Applicants' Response

2.1 The Applicants' response is set out in the following appendices:

Interested Party	Appendix
Local and Highway Authorities	
North West Leicestershire District Council (NWLDC)	1
Leicestershire County Council (LCC)	2
National Highways (NH)	3
Statutory Bodies and Organisations	
Environment Agency (EA)	4
Natural England (NE)	5
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Parish Councils	
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Local Interest Groups	
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Prologis UK Limited and Prologis UK 121 Limited (Prologis)	12
East Midlands International Airport Limited and East Midlands Airport Property Investments (Industrial) Limited (EMA)	13
Local community and other interested parties	
John Raymond Sutton	14
Litton (Donington) Ltd	15
Dermot Ryan	16

- 2.2 The Applicants note the written response regarding designation of the East Midlands Freeport received from Ministry of Housing, Communities and Local Government [REP1-212D to REP1-215D] but do not propose to provide a response.
- 2.3 Where a response refers to an annexure, this can be found at the end of this document. Annexures are numbered using the relevant Appendix number followed by a letter (A, B, C, etc.).
- 2.4 Further, in the interests of efficiency, it should be noted that:
- (a) the Applicants have not sought to respond to every point made by every interested party at Deadline 1. Some of the points repeat earlier points or do not require a response;
 - (b) where the same or similar points are raised in multiple instances, the Applicants do not repeat the same response; and
 - (c) where the same point has been made in previous submissions, the Applicants refer to their previous responses, rather than repeating them again in this document.

APPENDIX 1

RESPONSE TO SUBMISSIONS MADE BY NWLDC

Post Hearing Action Points		
No.	Matter	Applicants' Response
5	<p>Substantial Completion</p> <p>The phrase “substantially completed” is used in several provisions of planning legislation, including in paragraph 5 of schedule 6 to the Planning Act ('PA') 2008 in relation to the power to make a change to a development consent order ('DCO') after “the relevant development” (i.e. the development for which consent is granted by the DCO, per sub-paragraph 5(7)) was substantially completed.</p> <p>NWLDC understands that the phrase “substantially completed” is not defined in the PA 2008 or other relevant legislation. It therefore requires a judgement to be made as a matter of fact and degree.</p> <p>In that regard, NWLDC notes the judgment in <i>Sage v Secretary of State for the Environment</i> [2003] 1 WLR 983, in which the House of Lords considered the phrase “substantially completed” in the context of section 171B of the Town and Country Planning Act ('TCPA') 1990. The development in question was a single dwelling. It was said at paragraph 6 of the judgment that, in determining whether the unauthorised building, engineering, mining or other operations are substantially completed, regard should be had to the “totality of the operations which the person originally contemplated and intended to carry out”.</p> <p>NWLDC considers that the Sage judgment provides useful guidance to the ExP in the context of paragraph 5 to schedule 6 to the PA 2008 in the absence of direct authority on the same.</p>	<p>The Applicants refer to their response to this point set out in [REP1-053].</p>

NWLDC further notes the judgment in *Ardagh Glass Ltd v Chester City Council* [2009] EnvLR 34, in which the High Court was invited to apply the Sage approach in relation to a large glass container factory, again in the context of section 171B of the TCPA 1990. At paragraphs 54 to 56, it was said [with emphasis added]:

“54. I do not read that as meaning that in every case the totality of all the operations included in the planning application must be substantially completed before any element becomes immune. That is not what Lord Hope said. He said regard must be had to the totality of the operations. In the straightforward case that he was considering, having such regard to the totality of the operations Mr Sage contemplated, it was found to be clear that those operations were intended to produce one dwelling house. Those operations had not been substantially completed. Neither Lord Hope nor Lord Hobhouse were saying that, faced with a complex development, and having regard to the totality of the operations contemplated and intended to be carried out, the conclusion would still necessarily be that it all amounted to one set of operations all of which needed to be substantially completed before time began to run. Nothing they said rules out the possibility that having regard to the totality of the development leads to the conclusion that the development is made up of several distinct elements, each one of which is carried out by means of its own separate and distinguishable operations each element of which is capable of being substantially completed and (in the absence of a condition to the contrary) acquiring its own immunity.

55. Whether on appeal that would or would not be the right analysis of the development would, I repeat, be a matter of fact and degree for the inspector or Secretary of State. The point is not that the inspector or Secretary of State would necessarily find that a holistic approach would lead to identifying different elements as having been substantially completed at different times. The point is that, in my view, nothing said in Sage would prevent the Secretary of State from reaching that view as a matter of fact and degree.

56. In my judgement Sage does not support the proposition that, in respect of a very large and complex development, made up of several

	<p><i>distinct, though physically and functionally connected, elements, substantial completion cannot be achieved for any part of it until the totality of all the operations are complete. And yet this appears to me to be at the heart of the defendant councils' consideration of the timing of enforcement action. That involves an error of law."</i></p> <p>Of course, the judgment in Ardagh was concerned with the issue of whether individual elements of a development could be substantially complete and immune from enforcement in circumstances where the development may not be substantially complete as a whole. Such considerations do not appear to arise under paragraph 5 to schedule 6 to the PA 2008, which is directed to the change to or revocation of a DCO.</p> <p>Indeed, NWLDC notes that paragraph 5 to schedule 6 to the PA 2008 expressly refers to substantial completion of "the relevant development", which is defined in sub-paragraph 5(7) as "the development for which consent is granted by the development consent order".</p> <p>Accordingly, NWLDC considers that "substantial completion" is to be determined by the ExP as a matter of fact and degree, and that the ExP ought to have regard to the totality of the development for which consent was granted by the DCO.</p> <p>So far as it assists the ExP, NWLDC understands that the construction of the gantry cranes is the only element of the 2016 Order which has not been completed. In those circumstances, having regard to the totality of the consented development, NWLDC agrees with the applicants that the consented development is substantially complete notwithstanding the absence of the gantry cranes.</p>	
8	<p>Consideration under section 104 and 105 of the Planning Act 2008</p> <p>NWLDC notes that development of a description for which a national policy statement ('NPS') has effect must be determined under section 104 of the PA 2008, whereas development for which no NPS has effect falls to be determined under section 105 of the PA 2008.</p>	<p>The Applicants note NWLDC's response which aligns with its response to this point set out in its earlier representations at Item 3 of ISH1 within the Applicants' Post Hearing Submissions [REP1-052] and at ISH1</p>

<p>NWLDC further notes that the application here seeks permission for commercial and business development (part 1 of schedule 1 to the dDCO), alteration of existing highways (part 2 of schedule 1 to the dDCO), and associated development (part 3 of schedule 1 to the dDCO). NWLDC agrees with the applicants that the highway alterations are such as to constitute a nationally significant infrastructure project, for which the National Networks NPS is in effect.</p> <p>On the question of whether the application should be considered holistically under only one of the two statutory provisions, NWLDC would refer the ExP to the judgment in <i>EFW Group Limited v Secretary of State for Business, Energy and Industrial Strategy</i> [2021] EWHC 2697 (Admin), in which the High Court had to consider whether it was wrong to apply section 104 of the PA 2008 to the whole of an application which comprised two energy from waste proposals, only one of which was of a scale as to fall within the scope of an NPS. At paragraphs 57 and 58, it was said [with emphasis added]:</p> <p>“57. In my view the ExA was correct in his approach to sections 104 and 105 of the 2008 Act in the context of the present proposals. Clearly there is no dispute, firstly, that it is possible to include more than one project or development within the same application for a DCO and, secondly, that the K3 Project was one for which the NPS had effect, and therefore to which section 104 applied. Whilst I can see the force in the submissions of the claimant in relation to the use of the word “application” in both sections 104 and 105, the use of this word needs to be understood in the context of the statutory framework as a whole.</p> <p>58. To suggest that by incorporating a project in respect of which the NPS has no effect within an application for a separate free-standing project which does fall within the scope of an NPS it is possible effectively to enlarge the scope of the NPS so as to include a project to which it was not designed to apply would clearly run contrary to the overall statutory scheme. That overall statutory scheme places the NPS at the heart of the decision-making process, and prescribes specific procedures, including endorsement by Parliament, prior to its designation. The contents of the NPS cannot be questioned in the</p>	<p>Action Point 8 of the Applicants' Response to Hearing Action Points [REP1-053].</p>
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decision-making process: so much is made clear in sections such as section 106(1) which applies in the decision-making context, and which entitles the defendant to disregard representations which “relate to the merits of policy set out in a national policy statement”. Similar provisions are contained in section 87(3) respecting like representations to the ExA, and section 94(8) in relation to like representations made at hearings. It would be inconsistent with the centrality of the NPS within the statutory decision-making framework for its scope to be enlarged and its provisions bypassed by the manner in which an application has been formulated.

59. Whilst specific circumstances of the kind presented by the application in the present case may not have been directly foreseen by those framing the 2008 Act, it is clear that the overarching approach of the legislation is that decisions should be reached in relation to proposals for development in respect of which an NPS has effect deploying the framework within section 104 of the 2008 Act, whereas proposals for development within the statutory framework’s decision-making process for which there is no applicable NPS having effect are to be decided pursuant to the framework provided by section 105 of the 2008 Act. Such an approach clearly reflects the language of section 104(1) which refers to an NPS having effect “in relation to development of the description to which the application relates”. It is less consistent with a literal reading of section 105(1), but when that text is placed in the context of the purpose and structure of the legislation as a whole, it is clear that section 105(1) should be interpreted as applying to those discrete elements of an application which comprise proposals for development for which no NPS which has effect. I accept the submission of the defendant that section 105 of the 2008 Act should be interpreted as applying to free-standing parts of an application to the extent that “section 104 does not apply in relation to the application”. Such an approach reflects the purpose and intent of the legislation without unduly disturbing the effect of the statutory language. Thus, the ExA was correct to take the approach which he did.

	<p>60. The question arises as to whether or not the section 35 direction which was made in relation to WKN has the effect of bringing it within the scope of the decision-making framework pursuant to section 104. In my view it does not.”</p> <p>In light of the above, and the dDCO submitted by the applicants, NWLDC considers that this is a case in which more than one development proposal has been included within the same application. As such, NWLDC considers that it is appropriate for the ExP to adopt a “split” approach which ensures that development for which a NPS is in effect is considered under section 104 of the PA 2008, whilst other development for which no NPS is in effect is considered separately (and without broadening the scope of an NPS) under section 105 of the PA 2008.</p> <p>That being said, NWLDC recognises that matters incorporated within an NPS may still be important and relevant to a determination under section 105 of the PA 2008, with the High Court confirming at paragraph 39 of the judgment in EFW Group that “a decision-maker is not precluded from taking into account matters incorporated within an NPS in determining an application to which section 105 applies, so long as they are both important and relevant to the decision under consideration.”</p>	
9	<p>Implications of EMG1 DCO Article 5(2)</p> <p>At the outset, NWLDC recalls that there was some discussion in ISH1 of the status of the planning permissions that have been granted by NWLDC for development within the Order limits of the East Midlands Gateway Rail Freight Interchange and Highway Order 2016 (‘the 2016 DCO’).</p> <p>For the avoidance of doubt, NWLDC refers the ExP to the well-established principle that a public law decision, which includes a grant of planning permission, is effective unless and until it is successfully challenged in a court of competent jurisdiction. In R(Majera) v Secretary of State for the Home Department [2022] AC 461, the Supreme Court explained the position at [29] [with emphasis added]:</p>	<p>The Applicants refer to their response to this point set out in [REP1-053].</p>

“29. Accordingly, if an unlawful administrative act or decision is not challenged before a court of competent jurisdiction, or if permission to bring an application for judicial review is refused, the act or decision will remain in effect. Equally, even if an unlawful act or decision is challenged before a court of competent jurisdiction, the court may decline to grant relief in the exercise of its discretion, or for a reason unrelated to the validity of the act or decision, such as a lack of standing (as in *Durayappah v Fernando* [1967] 2 AC 337) or an ouster clause (as in *Smith v East Elloe*). In that event, the act or decision will again remain in effect. An unlawful act or decision

cannot therefore be described as void independently of, or prior to, the court’s intervention.”

None of the planning permissions granted by NWLDC in relation to development within the Order limits has been challenged before a court within the 6-week time limit that applies to challenges under the planning acts. As such, none of those permissions is void, and the ExP is to proceed on the basis that they remain in effect.

Article 5(2) of the 2016 DCO in turn provides that it does not constitute a breach of the Order if development is carried out within the Order limits pursuant to a planning permission granted under the TCPA 1990. It follows that the implementation of any of the planning permissions granted by NWLDC does not give rise to a breach of the Order which could be injuncted or enforced against.

That being said, in light of the judgment in *Hillside Parks Ltd v Snowdonia National Park Authority* [2022] 1 WLR 5077, NWLDC recognises the possibility that the implementation of planning permissions granted by NWLDC could have implications for the ExP’s decision on the dMCO, insofar as the planning permissions could depart materially from the 2016 DCO and future compliance with the 2016 DCO could now be physically impossible. Ascertaining whether that is in fact the case will require the ExP to understand and consider the planning permissions that have been granted by NWLDC. Accordingly, NWLDC

	intends to provide further information in relation to the planning permissions in its Statement of Common Ground with the applicants.	
Responses to ExQ1		
ExQ	Interested Party's Response	Applicants' Response
1.0 Planning and Infrastructure Act 2025 The Planning and Infrastructure Act received Royal Assent on Thursday 18 December 2025. All IPs, including the applicants, are invited to submit comments on the new Act in relation to any implications for the examination of this application.	NWLDC notes that a number of the provisions of the Planning and Infrastructure Act 2025 which would affect NWLDC's participation in the examination as an interested party are not yet in force, such as section 8 (local impact reports and representations).	The Applicants note the response.
1.1 Development Plan Could the identified interested parties please provide copies of the development plan for which they are responsible along with any associated policy maps. Where a development plan is under review, could the identified interested party, also provide information as to the stage of review that the plan has reached, along with a timetable through to adoption / making. This should be updated throughout the examination should it change.	A copy of the adopted North West Leicestershire Local Plan ('NWLLP') is submitted for the ExP's information along with the relevant policy maps. The emerging (new) Local Plan (2024 – 2042) is under preparation. To date there have been four Regulation 18 stage consultations in 2018, 2022, 2024 and 2025. As confirmed at the meeting of the Local Plan Committee on 18th March 2026, the timetable to submission is as follows:	The Applicants note the response.

<p>Where a draft development plan document exists, please could a copy also be provided (along with any associated maps). Again, this should be updated throughout the examination.</p>	<table border="1" data-bbox="741 197 1411 624"> <thead> <tr> <th>Date/Month</th> <th>Stage</th> </tr> </thead> <tbody> <tr> <td>22 April 2026 – Local Plan Committee</td> <td>Report on outstanding policy areas</td> </tr> <tr> <td>April 2026 (Date TBC)</td> <td>Member briefing on Local Plan</td> </tr> <tr> <td>20 May 2026 – Local Plan Committee</td> <td>Seek approval to consult on the Regulation 19 Local Plan and to submit the plan following consultation</td> </tr> <tr> <td>June/July 2026 – Cabinet and Council</td> <td></td> </tr> <tr> <td>July – September 2026</td> <td>Regulation 19 Consultation (minimum of 6 weeks but intend to extend to account for summer/school holidays)</td> </tr> <tr> <td>October 2026</td> <td>Process representations received and collate all the documentation for submission</td> </tr> <tr> <td>November/December 2026</td> <td>Formal Submission of the Local Plan</td> </tr> </tbody> </table> <p>Thereafter the timetable is in the hands of the Planning Inspectorate. Assuming an examination of between 12 to 18 months, the new Local Plan could be adopted in early/mid-2028.</p> <p>The 2024 Regulation 18 consultation comprised four separate consultation documents:</p> <ul style="list-style-type: none"> - Proposed Policies; • Proposed Housing and Employment Allocations (see page 79 onwards with respect to the East Midlands Freeport site); - Proposed Limits to Development; and - Draft Policies Map. <p>Copies of the above documents are also submitted for the ExP's information.</p>	Date/Month	Stage	22 April 2026 – Local Plan Committee	Report on outstanding policy areas	April 2026 (Date TBC)	Member briefing on Local Plan	20 May 2026 – Local Plan Committee	Seek approval to consult on the Regulation 19 Local Plan and to submit the plan following consultation	June/July 2026 – Cabinet and Council		July – September 2026	Regulation 19 Consultation (minimum of 6 weeks but intend to extend to account for summer/school holidays)	October 2026	Process representations received and collate all the documentation for submission	November/December 2026	Formal Submission of the Local Plan	
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<p>1.2 Development plan</p>	<p>NWLDC's Local Impact Report ('LIR'), submitted separately, outlines the local planning policies which NWLDC consider to be relevant in the determination of the application.</p>	<p>The Applicants has responded to NWLDC's Local Impact Report separately (see Document DCO 7.11 / MCO 7.11) and</p>																

<p>In paragraphs 4.64 to 4.77 of the Planning Statement [AS-018] the applicants set out various policies they consider important and relevant in the consideration of the proposed development. Does NWLDC agree with this? If not, could NWLDC please set out those policies it considers to be important and relevant along with a reasoning as to their (non-) applicability where a difference occurs.</p>	<p>In addition, NWLDC is in the process of negotiating a Statement of Common Ground ('SoCG') on 'Planning Policy' with the applicants.</p> <p>NWLDC's position on the important and relevant local planning policies will therefore be set out in the LIR and Planning Policy SoCG.</p>	<p>welcomes the progression of the SoCG with NWLDC on this matter.</p>
<p>1.2.1 Planning Statement</p> <p>In paragraphs 4.48 and 6.6 of the Planning Statement [AS-018] the applicants set out the effect of paragraph 11 of the Framework. However, it is not clear whether the applicants consider:</p> <p>(a) the proposed development accords with an up-to-date development plan, (b) the so-called 'tilted balance' should apply to this proposed development, or (c) any other position.</p> <p>The applicants are asked to clearly set out their position and explain their reasoning. NWLDC is also asked to give its views on this topic.</p>	<p>Policy Ec2(2) (New Employment Sites) of the adopted Local Plan states that "where evidence indicate an immediate need or demand for additional employment land (B1, B2, B8) in North West Leicestershire that cannot be met from land allocated in this plan, the Council will consider favourably proposals that meet the identified need in appropriate locations." This is subject to proposals meeting three further criteria (a – c).</p> <p>NWLDC interprets the wording of the policy as follows:</p> <ul style="list-style-type: none"> - 'Immediate' in this context is interpreted as 'arising now.' - 'Need' correlates to a policy requirement identified through the plan-making process to ensure that the future needs of an area are adequately addressed. - 'Demand' could be in the form of a request from potential future users or could be to address a gap in the supply of premises in 	<p>See the response in section 9 of the Applicants' response to the Local Impact Report submitted by NWLDC (Document DCO 7.11 / MCO 7.1).</p>

	<p>the D. In other words, it relates to 'market demand.'</p> <p>The policy requires immediate need or demand to be demonstrated; it is not necessary to demonstrate both.</p> <p>Need</p> <p>Please refer to NWLDC's response to Q15.0.1 below. In summary, NWLDC agrees that there is a future need for additional industry and warehousing (including strategic scale warehousing). NWLDC does not agree with the applicants conclusion about the quantum of that future need.</p> <p>Immediacy</p> <p>Policy Ec2(2) also states that any need that is identified must be immediate.</p> <p>The emerging Local Plan covers the period 2024 to 2042 (18 years). The proposed employment site allocations contained in the emerging Local Plan (which include the application site) will contribute significantly towards the evidenced need for both strategic warehousing and smaller scale industry / warehousing throughout that time period, if confirmed. (Details of the former are set out in a report to the Local Plan Committee for its meeting on 19th November 2025. Details of the latter are set out in the report to the Local Plan Committee for its meeting on 24th September 2025. These two reports are submitted for the information of the ExP.)</p> <p>In NWLDC's view, there is a process in place to address the evidenced need, namely the Local Plan process. The quantum of need identified in the evidence base for the emerging Local Plan covers a</p>	
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	<p>period of 18 years; it does not all arise now. Accordingly, the need identified in the evidence base is not 'immediate.'</p> <p>Demand</p> <p>The applicants have submitted an Industrial and Logistics Need Assessment [APP-123] ('ILNA') prepared by Savills. Section 5 of this document assesses market signals in North West Leicestershire ('NWL'), the Functional Economic Area ('FEMA') and the East Midlands Gateway ('EMG') market area.</p> <p>NWLDC considers that the ILNA provides a general picture of demand but is not sufficiently specific to demonstrate demand for the amount and type of floorspace being proposed in the application. In NWLDC's view, information that would demonstrate a specific and current demand for the business and commercial development being proposed could include:</p> <ul style="list-style-type: none">- confirmed end users for the site;- evidence of a specific gap in the District's portfolio of sites; and/or- evidence of operators' specific interest in the development as a result of marketing. <p>More specific information could also demonstrate the timescale of demand (i.e. whether it is genuinely 'immediate'). Also relevant to the consideration of the immediacy of demand is that there is circa 219,000 sqm of B2 / B8 floorspace with planning permission in the vicinity of Junction 24 of the M1 in NWL. The details of the planning permissions are as follows:</p>	
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	<p>- 24/00074/REMM – Land South of Junction 1 of the A50, Station Road, Castle Donington.</p> <p>Development of up to 92,500 sqm GIA of storage and distribution units (B8), industrial units (B2) and light industrial units (B1c).</p> <p>The illustrative reserved matters masterplan shows 5 units of between circa 6.900 sqm and circa 39,900 sqm (GIA) for B2 / B8 – Total GIA = circa 81,400 sqm</p> <p>Not started.</p> <p>- 22/00954/REMM – Land Opposite the Cottage, Netherfields Lane, Hemington.</p> <p>Erection of 4 no. units for storage or distribution use with ancillary offices and associated works. 4 units of between circa 8,800 sqm and 31,800 sqm (GIA) – Total GIA = circa 77.500 sqm.</p> <p>Under construction.</p> <p>- 24/01200/FULM – Land at Sawley Interchange adjacent to Aldi Distribution Centre, Tamworth Road.</p> <p>Development of the site to provide unit for employment purposes within use classes B2 / B8 with ancillary offices etc.</p> <p>One unit of 59,910 sqm (of which 57,125 sqm would be B2 / B8).</p> <p>Under construction.</p> <p>The site location plans and site layouts for the above applications have been submitted for the ExP's information.</p>	
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	<p>There is a pipeline supply of B2 / B8 floorspace available for demand arising in the shorter term.</p> <p>Policy Ec2(2) also states that the immediate need or demand (if identified) must not be capable of being met on land allocated in the adopted Local Plan.</p> <p>It is broadly accepted by NWLDC that benefits of Junction 24 of the M1 location would not necessarily be satisfied at:</p> <ul style="list-style-type: none"> - Money Hill, Ashby de la Zouch (allocated under Policy Ec2(1)); - the ex-Lounge site at Ashby de la Zouch (allocated under Policy Ec1a); or - the land to the rear of Charnwood Arms, Bardon, Coalville (allocated under Policy Ec1b). <p>The M / A42 corridor and Coalville fall in different Areas of Opportunity ('AoO') in the Leicester and Leicestershire Strategic Distribution Need and Apportionment Study (October 2025) ('the L&L Study') (see Figure 2.1 on Page 29 of the L&L Study – as submitted).</p> <p>The Sawley Crossroads site (allocated under Policy Ec1c) is within the same AoO (Area 3) as the application site. This site is the site described above with planning permission for 59.910 sqm B2 / B8 (24/01200/FULM). NWLDC considers that his site could make a contribution towards any immediate need or demand, although it could not accommodate the full extent of the development proposed in the application.</p>	
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	It follows that NWLDC does not consider that the information submitted by the applicants demonstrates compliance with the immediate need / demand test of Policy Ec2(2).	
1.2.6 Plot 16 Could NWLDC please confirm that any safeguarding direction for High Speed 2 has been withdrawn providing a copy of that withdrawal. If a direction remains in place, could NWLDC please provide a copy and set out any implications that may flow from it.	NWLDC received written confirmation from the Department for Transport ('DfT') on 18th July 2025 that the safeguarding direction for Phase 2b of High Speed Rail 2 ('HS2') which applied to land within NWL had been removed. A copy of this correspondence is submitted to the ExP for their information.	The Applicants note the response.
1.2.7 Planning permission relating to heights of stacked containers Could NWLDC please provide a copy of the planning permission which purportedly permits the raising of the height of the container stacks to 15m. This should include the decision notice and all associated documents to allow the ExP to understand it properly.	Please find submitted the planning decision notices associated with application references 18/01527/FULM and 22/00867/FULM, along with relevant plans / documents, which permitted the increase in the container stacks within the rail terminal associated with the East Midlands Gateway Rail Freight Interchange and Highway Order 2016 ('the 2016 DCO').	The Applicants note the response.
1.2.8 20% advanced manufacturing floorspace Paragraph 3.2.7 of chapter 3 of the ES [AS-025] states that the development would primarily comprise logistics	NWLDC would invite the applicants: - to demonstrate that the nature of the advanced manufacturing (if increased) would not alter the conclusions reached in relation to Chapters 7 [AS-035] and 8 [AS-037] of the ES; and	The Applicants refers to its response to this question submitted at Deadline 1 [REP1-054].

<p>buildings with up to 20% of the floorspace capable of being used for 'advanced manufacturing'. Please can the applicants clarify how this 20% limitation is secured in the draft Development Consent Order (dDCO) and explain the environmental effects in the event this 20% limitation is exceeded. For example, why is the limitation important, does advanced manufacturing generate different environmental effects in relation to traffic, noise and disturbance compared to storage and distribution?</p>	<ul style="list-style-type: none"> - confirm that the trip rates applied (which are based on those adopted for the 2016 DCO) allow for 20% advanced manufacturing floorspace. 	
<p>1.3.1 Planning application on northern part of EMG2 site</p> <p>Could NWLDC provide a copy of the 24/00727/OUTM application. This should consist of the application form, drawings showing any land proposed for development and (indicative) layouts and/or parameters plans, together with details of any off-site infrastructure which it is intended to secure as part of that development.</p> <p>In addition, could NWLDC provide information, so far as it has it, as to the timetable for consideration of the application and for any subsequent legal agreements, if necessary, to be completed.</p>	<p>Please find submitted a copy of the requested information associated with application reference 24/00727/OUTM.</p> <p>In terms of an update on the application, the applicants have provided the requested clarification and technical updates to support NWLDC's assessment and address queries from consultees. There are limited outstanding matters which remain under review or require final clarification, principally relating to:</p> <ul style="list-style-type: none"> - highway modelling and mitigation, the review of which is ongoing by National Highways and LCC with an aim to conclude in April 2026; and - the compliance of the development with Policy Ec2(2) of the adopted Local Plan. <p>NWLDC expects that the application will be in a position to be considered by committee in June or July 2026. Subject to any progress prior to</p>	<p>The Applicants' view is that the timetable set out by NWLDC for determining the Joint Application is not realistic given the outstanding matters to be resolved prior to determination (including highways modelling and agreement on highway mitigation).</p>

<p>Could Prologis / EMIA please set out its intentions for the consideration of the application.</p> <p>If the application is amended so that any of the above details change, can we please be provided with that information.</p>	<p>committee, the conclusion of a section 106 agreement would likely take between one to two months to be completed following a positive determination.</p> <p>NWLDC will keep the ExP updated with any progress in relation to this application as the Examination progresses and will also provide relevant updated information as and when it is submitted to NWLDC.</p>	
<p>1.3.3</p> <p>Isley Woodhouse development</p> <p>Could NWLDC advise as to the current situation on the planning application for Isley Woodhouse, and provide details of the proposal, a location plan and details of any off-site works, particularly highway works, which it is intended to secure as part of that development, or any triggers that would prevent implementation or occupation unless a particular piece of infrastructure had been provided?</p> <p>Does NWLDC have any date for its determination?</p> <p>Could NWLDC please ensure that the examination is kept updated in this regard.</p>	<p>Please find submitted a copy of the requested information associated with the Isley Woodhouse development (NWLDC application reference 25/00865/OUTM).</p> <p>At this time NWLDC does not have a timescale for the determination of this application given that it is still out for consultation, and a large number of technical consultee responses are awaited. Most notably, neither LCC nor NH has provided substantial responses on highway matters and therefore NWLDC is not in a position to make any comments on potential conditions / trigger points for delivery of any highway mitigation.</p> <p>Moreover, there is still a substantial amount of other highway work ongoing in the background in relation to modelling the impacts of the various other schemes in the area (which includes the application site). There is unlikely to be any progress on highway matters relating to Isley Woodhouse until this work has been completed.</p>	<p>The Applicants note the response.</p>

	NWLDC will keep the ExP up-to-date should any progress be made with this application as the Examination progresses.	
<p>1.4.3</p> <p>Community Park</p> <p>Is the size of the community park sufficient to create a meaningful buffer between the EMG2 main site and neighbouring residential development, whilst delivering the multitude of proposed functions (recreation, landscape and ecological mitigation etc.)? To this end, could the community park be made bigger, at the expense of industrial and logistics floorspace, if it was determined that its current size would place unworkable constraints on its intended functions?</p> <p>The ExP also invites comments from NWLDC on this matter.</p>	<p>NWLDC considers that it is for the applicants to demonstrate that the proposed plot sizes are necessary to make the development viable.</p> <p>Provided that such need can be demonstrated, NWLDC considers that the Community Park as proposed provides a meaningful buffer. Whilst NWLDC would prefer to see an increase in the size of the park, NWLDC recognises that this needs to be balanced with the viability of the development overall. NWLDC recognises that the development provides a separation of 150 metres between the proposed plots and the closest residential property, and this would be significantly better than other schemes within the district comprising similar development which have been granted approval.</p> <p>In terms of “delivering the multitude of proposed functions (recreation, landscape and ecological mitigation etc)”, NWLDC consider that these functions are not mutually exclusive and that it is possible to create a space which has all of these functions. The Community Park is 14.3 hectares, which makes it around 10% of the total site area, and which does not include all of the bunds and landscaping between the Community Park and development plots. It is therefore not of a size which would place "unworkable constraints on its intended functions" in the view of NWLDC.</p>	The Applicants welcome NWLDC's comments relating to the Community Park.
2.0.4	The referenced Design Objective states [with emphasis added]:	As set out in the Applicants' Response to Relevant Representations [REP1-051D], the

<p>Design</p> <p>In section 7 of the Design Approach Document [APP-220] dealing with the Design Code sets out the Key Design Objectives. One of these is “creating places with a strong sense of identity”. Could the applicants please explain why this does not include an aspect relating to the external appearance of the buildings to provide signposting and place-making within the proposed development.</p> <p>NWLDC is also asked to comment.</p>	<p>“Creating a sense of place and identify for Segro through developing a common architectural language and orientating buildings to provide legible wayfinding around the site.”</p> <p>NWLDC considers that this additional wording provides some clarity as to how the overarching objective is intended to be achieved.</p> <p>That being said, NWLDC notes that the wording used throughout the Design Approach Document is quite general and non-prescriptive. Whilst it is referred to as a ‘Design Code’, it uses the term “should” almost without exception, whereas best practice is that Design Codes should use the term “must”. This approach means that it is consequently difficult to determine or measure what needs to be done, or to discriminate between the respective importance of different components. Similarly, the diagrams (such as on Page 57) indicate a range of things, but it should be clear what is mandatory to deliver the objective.</p> <p>NWLDC notes that Page 70 refers to “Public Areas” and considers that more could be said here about the experiential qualities of the environment that are intended. Wayfinding could be mentioned. In relation to place making, it appears to NWLDC that there is little in relation to where people should meet, whether they can and what they might do.</p> <p>Accordingly, NWLDC considers that it would be useful for the applicants to highlight on a plan, and cross reference to it within the Design Code, where public areas are proposed.</p>	<p>Design Approach Document [APP-220] has been amended to address these concerns and resubmitted at Deadline 2.</p>
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<p>2.0.8</p> <p>Parking space size</p> <p>Paragraph 6.31 of the TA [APP-080] sets out parking sizes. The ExP is aware that many local planning authorities are seeking larger spaces (generally to the width) to accommodate the larger cars that are being produced compared to those when the standards were originally drawn up. Does the applicant, NWLDC or LCC have any comment as to whether larger spaces should be included within the parking areas?</p>	<p>NWLDC defers a response to this question to LCC as the Highways Authority.</p>	<p>The Applicants note the response.</p>
<p>4.0.2</p> <p>Monitoring data</p> <p>Paragraph 8.2.8 of chapter 8 of the Environmental Statement (ES) [AS-037] states that as of June 2025, the 2024 monitoring data had not been verified by the Department for Environment, Food and Rural Affairs (DEFRA). Please can the applicants' and NWLDC confirm whether the latest verified monitoring data is now available and whether the air quality assessment needs to be updated accordingly?</p>	<p>NWLDC's Environmental Protection Team has advised that paragraph 8.2.8 within chapter 8 of the ES [AS-037] states:</p> <p>"A further email was sent to NWLDC on 10th June 2025 to understand if their 2024 monitoring data is available, and it has been confirmed (at the time of writing) that the monitoring data has not been verified by the Department for Environment, Food and Rural Affairs ('DEFRA')."</p> <p>It is advised by NWLDC's Environmental Protection Team that NWLDC's monitoring data does not get verified by DEFRA, and that in June 2025 the bias adjustment factors for the 2024 data would have been published.</p> <p>NWLDC's 2025 Annual Status Report to DEFRA was submitted at the end of June 2025 and the report was accepted by DEFRA on 15th August 2025.</p>	<p>The Applicants refer to their response to this question submitted at Deadline 1 [REP1-054].</p>

	<p>The applicants have used 2023 data for their model verification, but the relevant question is how closely the model matches reality and not how new the data is. As a result, the fact that the 2024 data has not been utilised is somewhat immaterial.</p> <p>Whilst NWLDC would not require the air quality assessment ('AQA') to be revised based on the monitoring data, in light of the above, an update to the AQA may still be required when accounting for the further transport modelling work which is being undertaken in accordance with LCC's Pan Regional Transport Model ('PRTM').</p>	
<p>4.0.3</p> <p>Reasonable worst case scenario complexity</p> <p>Paragraph 8.2.58 of chapter 8 of the ES [AS-037] establishes four scenarios considered as part of the traffic modelling that underpins the air quality assessment. These modelling scenarios were broken down into sub scenarios in paragraph 8.2.55. What is the rationale for conducting such a multitude of scenarios? Does it present an overly complex approach, and could it be streamlined by adopting one definitive reasonable worst case scenario for each of the following:</p> <ol style="list-style-type: none"> 1) Baseline traffic; 2) EMG2 project traffic (with Development Consent Order (DCO) and Material 	<p>NWLDC's Environmental Protection Team considers that all modelling scenarios are necessary. In this respect, air quality modelling is inherently inaccurate as it relies on traffic predictions. Those predictions are reliant on both the proposal being submitted and other proposals and Local Plan allocations coming into use. To assume all other Local Plan allocations and other submitted applications will come into use, and that their actual traffic will match the prediction, is overly conservative. Consequently, by modelling different scenarios (in addition to the baseline), it is possible to visualise the impact that the proposed development will have and how it compares with other cumulative impacts. This in turn allows for an assessment of the significance of the impact of the development to be properly understood.</p>	<p>The Applicants refer to their response to this question submitted at Deadline 1 [REP1-054].</p>

<p>Change Order (MCO) assessed discretely);</p> <p>3) EMG2 project traffic (with DCO and MCO assessed discretely) + mitigation; and</p> <p>4) EMG2 project traffic (with DCO and MCO assessed discretely) + mitigation + cumulative project traffic.</p>		
<p>4.0.7</p> <p>Mitigation</p> <p>NWLDC in its RR [RR-003] states that mitigation measures identified within appendix 8I [APP-106] would need to be appropriately secured within the dDCO. Please can NWLDC confirm whether it thinks the identified mitigation measures have been appropriately secured or not. If not, please suggest a draft requirement for the Exp's consideration.</p>	<p>For the purposes of air quality, in relation to the construction phase, NWLDC considers that the incorporation of a Dust Management Plan ('DMP') would respond to the details outlined in appendix 8I [APP-106]. However, to be more specific, the overarching Construction Environmental Management Plan ('CEMP') [AS-027D] should be amended so that it refers to the mitigation measures stated within Table 8i.1 of appendix 8I [APP-106] to ensure that they are appropriately secured as part of Requirement 10, which makes specific reference to the overarching CEMP.</p> <p>The above would also be necessary notwithstanding the further transport modelling work undertaken in accordance with LCC's PRTM, which may also alter the current conclusions of the AQA.</p>	<p>The Construction Environmental Management Plan ('CEMP') [AS-027D] has been updated to include all details set out in Table 8i.1 of Appendix 8I [APP-106] with further reference to that table. The updated CEMP has been submitted at Deadline 2.</p>
<p>4.0.9</p> <p>Statutory targets</p> <p>In relation to paragraph 8.7.106 of chapter 8 of the ES [AS-037], is the PM2.5 target to be achieved in 2028 statutory? Is the Secretary of State (SoS) under a statutory duty to ensure that it is</p>	<p>NWLDC understands that the interim Particulate Matter ('PM') 2.5 targets are taken from DEFRA's Environmental Improvement Plans ('EIP') of both 2023 and 2025 and are not statutory targets.</p> <p>However, given their status as targets in documents approved by the Government, NWLDC considers that it is reasonable to classify the exceedance of</p>	<p>The Applicants refer to their response to this question submitted at Deadline 1 [REP1-054].</p>

<p>met? Furthermore, please can the applicants elaborate on the potential implications of exceeding this target at Castle Donington. If the PM2.5 target is exceeded without the EMG2 project, how much does the EMG2 project add to this exceedance in percentage terms?</p> <p>More generally, it would be helpful if the applicants could provide a summary note or table outlining the SoS's statutory obligations regarding air quality targets and whether these would be met in the event the SoS took the decision to make the DCO.</p> <p>The ExP also invites comments from NWLDC on this matter</p>	<p>the interim targets as an indicator of an 'unacceptable level of air pollution' when having regard to criterion (e) of Paragraph 187 of the National Planning Policy Framework ('NPPF'), which specifies that new development should be prevented from contributing to unacceptable levels of air pollution and that development should, wherever possible, help to improve local environmental conditions such as air quality.</p> <p>Appendix 8G (Human Receptor Concentrations and Impacts) [APP-104] of Chapter 8 of the ES has assessed the impacts of PM2.5 against the 2020 air quality standard (as outlined on Pages 60 to 67) and establishes that only one receptor modelled would have a slight negative air quality impact.</p> <p>If the impacts are assessed against the EIP 2023 target (of 12µg·m-3 by 2028), then:</p> <ul style="list-style-type: none"> (i) 26 receptors have a slight negative impact; (ii) (ii) 4 have a moderate negative impact; and (iii) (iii) 9 have a substantial negative impact. <p>This would require some form of mitigation to be implemented to reduce the impact.</p> <p>If the impacts are assessed against the EIP 2025 target (of 10µg·m-3 by 2030), then:</p> <ul style="list-style-type: none"> (i) 13 receptors have a slight negative impact; (ii) (ii) 19 have a moderate negative impact; and 	
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	<p>(iii) (iii) 14 have a substantial negative impact.</p> <p>This again would require some form of mitigation to be implemented to reduce the impact.</p> <p>The submitted spreadsheet should also be considered by the ExP, which provides an assessment against each receptor as outlined within Appendix 8G of Chapter 8 of the ES.</p> <p>NWLDC considers that it would be appropriate for the ExP to consider the terms of the guidance within the EIP 2023 and the EIP 2025 and apply that in the context of criterion (e) of Paragraph 187 of the NPPF. The ExP may conclude that it is appropriate for further work(s) / assessment(s) to be undertaken by the applicants to devise measures to mitigate the impacts of PM2.5 on the receptors identified within Appendix 8G of Chapter 8 of the ES.</p> <p>NWLDC would also refer the ExP to the interim guidance on PM2.5 that was published by DEFRA in 2024 titled 'PM2.5 Targets: Interim Planning Guidance'. This guidance does not reference the interim targets in the EIP 2023 or the EIP 2025 but does refer to the 2040 air quality target of 10µg·m-3 as outlined in the Environmental Targets (Fine Particulate Matter) (England) Regulations 2023. Such guidance does not provide definitive guidance on how PM2.5 should be addressed. However, it does state that:</p> <p><i>“The new approach moves away from a requirement to assess solely whether a scheme is likely to lead to an exceedance of a legal limit and instead ensures that appropriate mitigation measures are implemented from the design stage, streamlining the</i></p>	
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	<p><i>process for planning and ensuring the minimum amount of pollution is emitted and that exposure is minimised.</i></p> <p><i>Applicants are advised to provide evidence in their planning applications that they have identified key sources of air pollution within their schemes and taken appropriate action to minimise emissions of PM2.5 and its precursors as far as is reasonably practicable.”</i></p> <p>NWLDC accepts that modelling of PM2.5 can be limited, flawed and/or inaccurate due to the chemistry, particle size, and vast range of sources of PM2.5, with differences in concentrations that are significantly less than the margin of error on the model. Therefore, NWLDC considers that further modelling is unlikely to provide any greater clarity on the impacts.</p> <p>To an extent, NWLDC considers that traffic data collected in Castle Donington as a basis on which to project future models may also be unreliable due to the fact that various highway works have been undertaken within this settlement (including the delivery of the Castle Donington bypass and traffic calming measures on the main thoroughfare within the settlement). Therefore, the nature of vehicle movements in and around the settlement following such works is not yet fully understood.</p>	
<p>4.0.10 Modelling NH [RR-022] raised concern about the large magnitude of some of the modelling</p>	<p>At the time of submitting this response, NWLDC has received no information from the applicants or NH in order to coordinate a response on this matter.</p>	<p>The Applicants refer to their response to this question submitted at Deadline 1 [REP1-054].</p>

<p>adjustment factors. On the other hand, NWLDC [RR-003] confirm that a range of matters in relation to the modelling have been agreed. For clarity, and subject to any Pan Regional Transport Model (PRTM) 2023 updates, please can NH and NWLDC, in conjunction with the applicants', work together and coordinate a response on whether the modelling and subsequent conclusions are acceptable.</p>		
<p>4.0.21 Air Quality in Castle Donington Could NWLDC please comment on the air quality issues, and particularly whether it agrees with the applicants' assessment in relation to the Castle Donington area. That is, whether conclusions need to be considered in relation to the localised dispersion / previous monitored NO2 concentrations at receptors within this location?</p>	<p>NWLDC's Environmental Protection Team consider that the applicants' assessment of NO2 in Castle Donington is acceptable.</p>	<p>The Applicants note the response.</p>
<p>5.0.3 Skylarks Prologis [RR-024D] raised concerns about the delivery of key mitigation, especially for skylarks displaced by the DCO scheme. Please can the applicants provide more details about any mitigation for skylark. The ExP are particularly interested how any such mitigation located on the community park would be</p>	<p>The below response has been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications: <i>"The bird report included information on the previous bird surveys undertaken at the site, and the results of the breeding and wintering bird surveys between 2024 – 2025. Skylark were confirmed as breeding and a 'common resident', along with other Priority Species. The ES Chapter 9 outlines the provision of grassland to provide alternative habitat and to support the carrying capacity of surrounding</i></p>	<p>The Applicants refer to their response to Leicestershire County Council's written submissions at Deadline 1 (see Appendix 2 of Document DCO 7.12 / MCO 7.12).</p>

<p>effective in the context of the park’s multifunctional use. For example, among other things, would recreational users of the community park have the potential to disturb skylarks and diminish the effectiveness of skylark mitigation (see ExQ1.4.2)? Please can NWLDC and NE provide an updated position in relation to protected species and in doing so comment on the issue of skylark mitigation, and farmland bird species more generally.</p>	<p><i>habitats, however suitable breeding habitat provision has not been provided for Skylarks. Furthermore, ‘moderate to high’ numbers of breeding Yellow Wagtail were recorded, which is an ‘uncommon summer migrant breeder’, such that further consideration of farmland birds is required.”</i></p>	
<p>5.0.4 Veteran trees Please can the Forestry Commission, NE and NWLDC clarify whether they are satisfied with the applicant’s assessment of veteran trees, including their role as irreplaceable habitats, as set out in the LEMP [APP-117], and whether there is compliance with paragraph 5.63 of the National Networks National Policy Statement (NNNPS)?</p>	<p>The below response has been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications: <i>“The LEMP [APP-117], which contains at Appendix B a Veteran Tree Strategy (VTS), of Chapter 9 of the ES [AS-039] notes that six of the veteran trees are retained, including the tree defined as veteran under the terms of criterion (c) of Paragraph 193 of the NPPF. Whilst the VTS is detailed, it is considered that it does not fully consider the guidance within the NPPG (Ancient woodland, ancient trees and veteran trees: advice for making planning decisions) on ancient and veteran trees. At this time, therefore it is considered that compliance with Paragraph 5.63 of the NNNPS is not demonstrated, albeit the weight to be applied in connection with any ‘public benefits’ is for the decision maker.”</i></p>	<p>The Applicants refer to their response to Leicestershire County Council's written submissions at Deadline 1 (see Appendix 2 of Document DCO 7.12 / MCO 7.12).</p>

<p>5.0.7</p> <p>Badgers</p> <p>Table 9.12 of chapter 9 of the ES [AS-039] states while badger welfare is protected under legislation they are common and widespread, and for planning purposes are not ascribed a particular conservation value and are considered to be of negligible importance. However, standing advice is clear that badgers should be protected for planning purposes. Are NE and NWLDC satisfied with the applicants' approach to badgers and that they are of 'negligible' importance?</p>	<p>The below response has been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications:</p> <p><i>"A SoCG in relation to 'Ecology and Biodiversity' is being negotiated with LCC Ecology. It is currently confirmed within the draft SoCG that the approach in relation to badgers has been previously agreed."</i></p>	<p>The Applicants confirm that they are continuing to engage with Leicestershire County Council on these matters.</p>
<p>5.0.10</p> <p>Hedgerow loss</p> <p>Please can NWLDC and NE advise whether they are satisfied with the extent of hedgerow loss as part of the proposed development and that it is consistent with the mitigation hierarchy? For example, would the detailed design on the EMG2 main site provide opportunities to retain some of the hedgerows that are currently identified to be lost?</p>	<p>The below response has been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications:</p> <p><i>"The Council's (being NWLDC and LCC) are largely satisfied that hedgerows have been retained where possible, with sections of hedgerow proposed for enhancement and new species-rich native hedgerow created. There may be some scope to retain some sections of hedgerow, including within the EMG2 DCO main site, and this should be explored further by the applicants and whereby the Council's can provide appropriate advice as required."</i></p>	<p>The Applicants confirm that they are continuing to engage with Leicestershire County Council on these matters.</p>
<p>5.0.11</p> <p>Pre-Construction species surveys</p> <p>Are pre-construction species surveys necessary as a general measure, or are</p>	<p>The below response has been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications:</p>	<p>The Applicants confirm that they are continuing to engage with Leicestershire County Council on these matters.</p>

<p>they only necessary in relation to specific species? In either case, have they been suitably secured in the dDCO and draft Material Change Order (dMCO)?</p>	<p><i>“As per the SoCG which is being agreed with LCC Ecology, the scope, timing and methods approach for the ecology survey work was previously agreed. Additional updates / further survey work is likely to be required including, but not limited to, an assessment of trees to be removed / impacted for roosting bats.”</i></p>	
<p>5.0.12 Securing ecological mitigation Ecological mitigation is contained in a number of documents, including the Environmental Statement (ES), Landscape Ecological Management Plan (LEMP), Construction Environmental Management Plan (CEMP), the Biodiversity Net Gain (BNG) Report and individual protected species reports. Are NE and NWLDC satisfied that these documents and the mitigation within them are suitably secured in the dDCO and dMCO? For example, is it clear that the habitat creation identified in the BNG Report [APP-116] is secured by the dDCO for the EMG2 works and the highway works, and by the dMCO for the EMG1 works?</p>	<p>The below response has been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications: <i>“Some matters remain outstanding regarding ecological mitigation and therefore an appropriate comment in relation to the securing of such measures within the dDCO and dMCO cannot be provided at this time.”</i></p>	<p>The Construction Environmental Management Plan (‘CEMP’) [AS-027D] has been updated in response to the matters raised and has been submitted at Deadline 2. An updated Landscape Ecological Management Plan [APP-117] and Chapter 9 of the Environmental Statement [AS-039] will be submitted at Deadline 3.</p>
<p>5.0.13 Ecological traffic mitigation Paragraph 9.5.171 of chapter 9 of the ES [AS-039] discusses general mitigation to address traffic related harm. Is there</p>	<p>The below response has been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications: <i>“There is scope to provide additional ecological mitigation to address traffic related harm which is feasible and it is therefore requested that the</i></p>	<p>The Applicants refer to their response to this question submitted at Deadline 1 [REP1-054].</p>

<p>scope within the detailed design to provide wildlife underpasses or wildlife crossings within the site, particularly for any protected species? If yes, how might this best be secured so that it is proportionate?</p>	<p><i>applicants provide further information in this respect for review.</i></p>	
<p>5.0.20 Age of surveys Are NE and NWLDC satisfied with the age of habitat and species surveys? If updates would be required prior to commencing development, have such updates been secured in the dMCO and dDCO?</p>	<p>The below response has been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications: <i>“As per Q5.0.11 above, the scope, timing and methods approach for the ecology survey work was previously agreed within the draft SoCG. However, it may be prudent to undertake an update walkover to determine the current ecological status.”</i></p>	<p>The Applicants notes the response.</p>
<p>5.0.21 Farmland bird habitat Please can the applicants calculate the percentage of existing farmland bird habitat that would be lost as a result of the cumulative projects within the region and indicate what proportion of that loss would be generated by the EMG2 project itself. Does NE or NWLDC have any concerns about the cumulative effects on farmland bird habitat? For example, would farmland birds displaced by the EMG2 project have sufficient habitat elsewhere in the region? Does EMIA have any concerns about the displacement of farmland birds in the immediate area</p>	<p>The below response has been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications: <i>“The response to Q5.0.3 would apply.”</i></p>	<p>The Applicants refer to their response to this question submitted at Deadline 1 [REP1-054].</p>

<p>surrounding the airport in regards bird strike risk?</p>		
<p>5.0.22</p> <p>Ecological zone of influence</p> <p>Are NE and NWLDC satisfied that Isley Woodhouse, and other such significant projects within the region, are outside the ecological zone of influence and would not have any impact pathways that would need to be considered cumulatively with the EMG2 project? Are the distances cited for the respective projects (2km - 5km) in table 9.34 of chapter 9 of the ES [AS-039] sufficient to draw such a conclusion in the context of the ecological receptors present within the region?</p>	<p>The below response has been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications:</p> <p><i>“The Council’s (LCC and NWLDC) note a number of the schemes within the area have been included within the potential for inter-project cumulative effects. However, potential impact pathways are ‘outside of the ecology zone of influence’ for Isley Woodhouse in the view of the applicants. Given the location of Isley Woodhouse in relation to the EMG2 DCO (which appears incorrect at 2 kilometres), the Council’s would require further clarification / rationale to be provided for this decision, in particular as we note East Midlands Airport and Gateway Industrial Cluster has been included which is located 1 – 2 kilometres west of the EMG2 DCO.”</i></p>	<p>The Applicants note the response and confirm that they are continuing to engage with Leicestershire County Council on remaining outstanding matters.</p>
<p>5.0.24</p> <p>Badger setts</p> <p>Please can the applicants clarify whether the mitigation hierarchy has been followed in relation to the loss of any badger setts, in accordance with paragraph 5.48 of the NNNPS? For example, have opportunities been taken to minimise the footprint of the development to avoid any badger setts currently identified for closure, and could the illustrative layout be reduced in extent during detailed design. Is there sufficient evidence demonstrating that</p>	<p>The below response has been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications:</p> <p><i>“The consideration of badgers has previously been discussed with the applicants but at the time of the submission of this response the confidential report has not been received from the applicants. The Council’s (being LCC and NWLDC) will therefore review any response once it is made available and comment accordingly to the ExP if requested.”</i></p>	<p>The Applicants confirm that they are continuing to engage with Leicestershire County Council on these matters.</p>

<p>such avoidance is not possible, and is NE and NWLDC satisfied with the applicants' approach in this regard?</p> <p>The applicants should submit their answer to this question in a confidential report. The ExP would ask that the applicants send a copy of the confidential report direct to NE and NWLDC for their consideration.</p>		
<p>5.0.26</p> <p>Approval of final LEMP</p> <p>Is NWLDC satisfied with the drafting of requirement 10 in the dDCO? Should requirement 10 make provision for the submission and approval of a final LEMP to ensure the measures within it are commensurate with the detailed design of the DCO scheme that would be approved under requirements 5, 7, 8 and 9? Indeed, paragraph 3.3 of the LEMP [APP-117] states it should be treated as a draft, and consequently does this further support the need for the submission and approval of a final LEMP?</p>	<p>In response to Q12.0.3 below, NWLDC considers that the current LEMP should be titled as an 'outline' or 'draft' LEMP to make it clear that it is not a final document and that more detailed information would be added to the LEMP during the detailed design stages. Requirement 10 should therefore be altered so that NWLDC can sign off a final LEMP once such detailed information is available, particularly in relation to final planting schedules (including species and sizes).</p> <p>In addition, LCC Ecology has advised that Requirement 10 could include more detailed prescriptions including, but not limited to, increasing the period in which replacement planting is required beyond the proposed 5 years and on-going / remedial measures to ensure the long-term success of proposed habitat creation / enhancement.</p> <p>NWLDC considers that it would be appropriate to require the submission of a final LEMP which accords with the detailed design of the development.</p>	<p>The Applicants confirm that the LEMP is not in outline. The wording of Requirement 10 has however been updated in response the comments to provide that a "final" LEMP will be submitted at the end of the proposed development. An updated draft DCO [PDA-004D] has been submitted at Deadline 2.</p>
<p>6.0.6</p> <p>Net zero carbon building standards</p>	<p>Notwithstanding the comments at Paragraph 19.5.65 of Chapter 19 of the ES [AS-069], NWLDC notes that Paragraph 5.1.8 of Appendix 19D [APP-195]</p>	<p>The Applicants refer to their response to Leicestershire County Council's written</p>

<p>In relation to paragraph 19.5.65 of chapter 19 of the ES [AS-069] is NWLDC satisfied with the applicants' reasoning about compliance with the Net Zero Carbon Building Standard? Does NWLDC have any views on whether additional requirements within the dDCO and dMCO could be used to create more certainty about building operational intensity and reduce operational emissions as far as possible?</p>	<p>indicates that the development is currently predicted to displace approximately 5,656 MWh of grid electricity per year.</p> <p>When calculated by reference to the built footprint of the development, this would equate to 18.6 kilowatts per metre squared (kWh / m²) per hour, which would not meet the target of 65 kWh/m² per year outlined within the pilot version of the UK Net Zero Carbon Building Standard ('NZCBS'). This is based on the development not utilising the roof space for electricity generation, however. If 100% of the available roof space is covered by solar panels, the ratio would increase to 93 kWh/m² and the development would be compliant.</p> <p>As a result, it would appear to NWLDC that there is potential for the development to be compliant with the NZCBS, albeit this would be reliant on the substantial use of solar panels, which may not be suitable given the proximity of the development to East Midlands Airport.</p> <p>In more general terms, NWLDC's comments in relation to energy and climate change are set out in the LIR, including suggested amendments to the Requirements in the dDCO [PD-004D].</p>	<p>submissions at Deadline 1 (see Appendix 2 of Document DCO 7.12 / MCO 7.12).</p>
<p>8.1.4</p> <p>Article 38 – Felling or lopping of trees and removal of hedgerows</p> <p>Could the identified parties please comment on the distance from the Order limits of 25 metres set out to allow works to trees and hedgerows. The ExP notes that general advice from NE is that 15m is</p>	<p>The following TPO trees exist within 25 metres of the Order limits associated with the EMG2 DCO:</p> <ol style="list-style-type: none"> 1) TPO211 (King Street Plantation, Lockington); 2) TPO260 (Lockington Park, Lockington – Woodland 1 and Group of Trees 2); and 3) TPO381 (A453 Pegasus Business Park, Castle Donington). 	<p>See the Applicants' response to this question [REP1-054]. The Applicants confirm that the wording of Article 38 has been updated to reduce the 25m to 15m. An updated draft DCO [PDA-004D] has been submitted at Deadline 2.</p>

<p>sufficient buffer to ensure ancient woodland is not affected. Given there is no such resource here, any distance will need to be fully justified both in response to this question and in the EM.</p> <p>Could NWLDC confirm whether presently there are any trees protected by tree preservation orders within 25m of the Order limits? Should this situation change, could NWLDC ensure this information is submitted into the examination.</p> <p>Is any party 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 party holds that view.</p>	<p>Information in connection with these TPO trees is submitted for reference by the ExP. NWLDC will update the ExP should any further TPOs be made which fall within 25 metres of the Order limits to the EMG2 DCO.</p> <p>In Article 38(6) of the dDCO, it is indicated that the prior approval of NWLDC (as the local planning authority) would be required if the tree or shrub to be felled, lopped or cut back is subject to a TPO. Consequently, there is a degree of control to ensure that those trees protected by a TPO would not be removed without any formal approval process.</p> <p>That being said, NWLDC is concerned that Article 38(7)(b) of the dDCO contains a blanket exclusion of the duty to provide a replacement tree under Section 206(1) of the Town and Country Planning Act 1990. NWLDC questions whether the exclusion of the duty would be justified in circumstances where a tree is removed to enable construction work and could in practice be replaced after such construction work had been completed, for example.</p> <p>In terms of distance, NWLDC notes that the DCO granted for the Northampton Gateway Rail Freight Interchange Order 2019 (for which SEGRO was the applicant) had a distance limitation of 15 metres associated with works to trees and hedgerows, in circumstances where no ancient woodland was within 1 kilometre of the site. NWLDC considers that the applicants will need to justify the distance of 25 metres before such time as the appropriateness of this distance can be advised upon.</p>	
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	<p>The below response has also been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications:</p> <p><i>“A review of the ecology data is also being undertaken by LCC Ecology in relation to whether hedgerows within 25 metres of the Order limits would be defined as “important” but at this time confirmation cannot be provided in relation to this matter.”</i></p>	
<p>8.2.1</p> <p>Prior notification and approval of further works</p> <p>The dDCO would grant development consent for further works under part 3 of schedule 1 provided that such works were not likely to give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any updated environmental information supplied under the 2017 EIA Regulations.</p> <p>Please can the applicants explain how this would work in practice. Would the undertaker self-determine what constitutes materially new or materially different significant effects on the environment? Consequently, would it be self-enforcing, and would such an approach be reasonable?</p> <p>To ensure the objective assessment of materially new or materially different</p>	<p>As the relevant planning authority, NWLDC is the principal authority responsible for undertaking an environmental impact assessment in accordance with the 2017 EIA Regulations and therefore the assessment of whether any further works are likely to give rise to any materially new or materially different significant effects on the environment should be carried out by NWLDC; it should not be self-determining or self-regulating by the applicants.</p> <p>A self-regulated approach would appear to be contrary to the 2017 EIA Regulations and may result in issues with the proper and public recording of the environmental effects of further works, with the potential consequences that it is not possible for the applicants' decision making to be audited by the NWLDC or other stakeholders, there is ambiguity over what is to be delivered, and there could be divergence between that the applicants' and the NWLDC's views as to what is "likely" to give rise to significant effects on the environment.</p> <p>Accordingly, NWLDC would request that they are given an appropriate opportunity to comment on any further works that the applicants may undertake to assess if they would result in any materially new or</p>	<p>The Applicants refer to their response to this question submitted at Deadline 1 [REP1-054].</p>

<p>significant effects, should the dDCO include provisions requiring the undertaker to notify the local planning authority prior to undertaking further works so that they can consider this question and whether prior approval should be granted?</p>	<p>different significant effects, with the dDCO amended to make provision for this.</p>	
<p>8.3.2 Requirement 1</p> <p>The parties are asked for their comments as to whether the definition of “ecological mitigation works” is sufficiently and precisely defined?</p>	<p>The below response has been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications:</p> <p><i>“The scope of “ecological mitigation works” does not cover the full suite of mitigation required and therefore is not sufficiently or precisely defined.”</i></p>	<p>The Applicants refer to their response to this question submitted at Deadline 1 [REP1-054].</p>
<p>8.3.3 Requirement 4</p> <p>Could the applicants explain why the sustainable transport working group should only continue its duties for five years rather than in perpetuity, given the traffic generation figures for the life-time of the development are based on an effective travel plan? Furthermore, what arrangements should there be in place for a second and subsequent occupier of the buildings to ensure sustainable transport arrangements are continued?</p> <p>NWLDC, NH and LCC are all asked for their views on this.</p>	<p>The Sustainable Transport Working Group (‘STWG’) for the EMG2 DCO is proposed to operate for 10 years from 2029 following the termination of the STWG under the 2016 Order in 2028. The Framework Travel Plan (‘FTP’) also references a 10-year period and sets out a high level of funding for the STWG and public transport improvements. NWLDC considers the proposed 10-year time period for the operation of the STWG to be reasonable and acceptable.</p> <p>NWLDC does, however, suggest that the FTP should be amended to require commitment from all subsequent occupiers of units within the 10-year period, and not only from the first occupier.</p> <p>NWLDC would also ask the applicants to produce an acceptable and appropriate legal mechanism and associated financial contribution to monitor and implement the ambitions of the Sustainable</p>	<p>The Applicants refer to their response to this question submitted at Deadline 1 [REP1-054].</p>

	Transport Strategy ('STS'). NWDLC suggests that this would be most appropriately dealt with in a DCO Obligation (DCO Ob – Section 106 agreement).	
<p>8.3.6</p> <p>Schedule 2 – Part 2</p> <p>(a) Are NWLDC and the highway authorities content with the eight-week period for determination of all matters as set out in paragraph 1(2)(a)? If not, what period would they consider appropriate? Should different periods apply to different works? Any answer should be justified.</p> <p>(b) Could the parties please give their views as to whether the phrase “before the end of the period in paragraph (a) or (b)” in paragraph 1(2)(c) is justified?</p> <p>(c) Are NWLDC and the highway authorities content with the fee arrangement set out in paragraph 3? If not, what arrangements should be put in place?</p> <p>(d) In paragraphs 4(8) and 4(9) should “must” be replaced with “may” in case of an outside event so as to ensure natural justice?</p> <p>(e) In paragraph 4(13) should the appointed person be able to award costs under their volition?</p> <p>(f) In the definition of “discharging authority” should this be referred to as a “body” as any party can be a discharging</p>	<p>In relation to (a), NWLDC considers that an 8-week period for determination of matters set out in Paragraph 1(2)(a) would be appropriate for the discharge of the Requirements given that, in accordance with Paragraph 1(2)(c), there would be an ability to agree an extension to the determination date of the discharge application if additional time was required.</p> <p>The only circumstance in which NWLDC can foresee that 8 weeks may be insufficient for a determination would be when multiple Requirements are submitted for approval at the same time (e.g. the initial earthworks and associated works may require the submission of information to discharge multiple Requirements), or the Requirement relates to a matter which requires more complicated assessments (e.g. ensuring that the earthworks form bunds which offer the screening sought as part of the landscape and visual mitigation).</p> <p>In terms of (b), NWLDC considers that the requirement for agreement on an extended period to be reached before the end of the periods in Paragraph 1(2)(a) and (b) is not justified given that it could be manipulated by the applicants. If the discharging authority makes the written request before the end of the relevant period, and this is not confirmed to be acceptable by the applicants before the end of the period, then this would appear to trigger the requirements under Paragraph 3(2)(b). Provided that the discharging authority has made</p>	<p>The Applicants note the response. The wording of the dDCO [PDA-004D] has been updated and will be submitted at Deadline 2.</p>

<p>authority; they do not need to be created by statute?</p>	<p>the written request for an extension before the end of the relevant period, this should be acceptable even if the applicants confirm their acceptance after the end of the relevant period. The wording of 1(2)(c) should therefore be amended potentially as follows:</p> <p><i>“such longer period as may be agreed by the undertaker and the discharging authority in writing, provided that the discharging authority has made the written request before the end of the period in paragraph (a) or (b).”</i></p> <p>With regards to (c), NWLDC notes that the fee arrangements within Paragraph 3 are consistent with those of other DCOs of a similar development type (including the Northampton Gateway Rail Freight Interchange). NWLDC may nevertheless pursue separate fees associated with the monitoring and enforcement of any breach of the dDCO and / or dMCO. This is a matter which is being discussed with the applicants and may need to be secured within a DCO Ob. In addition to the above, NWLDC would request clarity from the applicants, or the ExP, in relation to whether the repayment of the fee under Paragraph 3(2)(b) applies if an extension to the determination of the discharge of the Requirement has been agreed with the applicants. The suggestion is that it is not, but clarification on this would be appreciated.</p> <p>In terms of (d), NWLDC would agree with the observations of the ExP and considers that the word “must” should be replaced with “may” in Paragraphs 4(8) and 4(9). In relation to Paragraph 4(8), NWLDC notes that there could be unforeseen circumstances as to why NWLDC or requirement consultees have</p>	
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	<p>not submitted written representations in time, for example because there are missed communications, and using the word “may” would allow the appointed person some flexibility to accept late submissions where there is good reason to do so. In relation to Paragraph 4(9), it appears unlikely to NWLDC that the appointed person would not proceed to a decision at all in the absence of written representations, and using the word “may” would allow the appointed person some flexibility to enquire as to the reason why no representations have been received before proceeding.</p> <p>With regards to (e), NWLDC notes that the wording is consistent with other DCOs associated with development of a similar type (including the Northampton Gateway Rail Freight Interchange) and therefore has no particular comments to make. NWLDC will, however, review any comments provided by the applicants in relation to this matter.</p> <p>In terms of (f), NWLDC would agree with the ExP that the term ‘body’ is a clearer and more inclusive term than ‘authority’ given that any party can be a discharging authority.</p> <p>Further to the above, whilst not a question from the ExP, in relation to Paragraph 2(2), and when accounting for flexible working practices, NWLDC would ask that the applicants please confirm that ‘working days’ would apply to the period Monday to Friday (i.e. in essence there would be a 4-week period within the 8-week determining period to request further information, if required).</p>	
8.5.1	NWLDC is content with the disapplication of section 42 of the Local Government (Miscellaneous	The Applicants note the response.

<p>Miscellaneous controls</p> <p>In the EM submitted as an additional submission [AS-015D] in response to the s51 advice issued at acceptance, the applicants have set out the reasoning for various disapplications of legislation. Would those who would otherwise be responsible for the issuing of appropriate approvals under the would be disapplied provisions comment as to whether they are content? If not, could they explain why they hold that view. If an 'alternative' position, for example one which may apply in certain areas but not others were to be acceptable, the party is asked to set that out, explaining their position.</p>	<p>Provisions) Act 1976 outlined in Schedule 14 (Miscellaneous controls) of the dDCO [PDA-004D].</p> <p>NWLDC understands that LCC will comment in relation to the provisions of the Highways Act 1980 and the New Roads and Streets Works Act 1991.</p>	
<p>9.0.1</p> <p>Updated MCO at Procedural Deadline A</p> <p>At Procedural Deadline A, the applicant updated the dMCO [PDA-006M] with an explanation for those changes in the Schedule of Changes document [PDA-10M]. All IPs are asked to review these changes and the justifications for them and submit any comments that they may have into the examination.</p>	<p>NWLDC assumes that this comment relates to Schedule of Changes document [PDA-10M], rather than [PDA-008D], given that the matter relates to the dMCO.</p> <p>The comments of NWLDC largely relate to Article 2 (18), (19) and (20) and the Travel Plan which are covered by Q9.0.2 and Q9.0.3 and are therefore answered by NWLDC below.</p>	<p>The Applicants note the response.</p>
<p>9.0.2</p> <p>Article 2(18), (19) and (20)</p> <p>In order to avoid ambiguity, could the applicant. NWLDC and NH consider</p>	<p>The standard wording that is used by NWLDC for conditions on planning permissions requires details to be submitted to and approved in writing by NWLDC because it provides an important, auditable trail of what has been approved. On this basis,</p>	<p>The Applicants note the response. An updated dMCO [AS-013M] will be submitted at Deadline 2.</p>

<p>whether their agreements should be in writing, and if so, could the drafting be amended to provide for this.</p>	<p>NWLDC would request that the approval of NWLDC should be in writing.</p> <p>The above comment would be specific to Article 2(20), with Article 2(18) relating to highway works and NWLDC agreeing with the comments of the applicants within the Schedule of Changes document [PDA-10M] that Article 2(19) relates to development already completed under the 2016 DCO.</p>	
<p>9.0.3</p> <p>Article 2(26)</p> <p>Could the applicants explain why any occupier should only comply with the travel plan for five years rather than in perpetuity, given the traffic generation figures are based on an effective travel plan for the lifetime of the development? Furthermore, what arrangements should there be in place for a second and subsequent occupier of the buildings to ensure sustainable transport arrangements are continued? NWLDC, NH and LCC are all asked for their views on this.</p>	<p>NWLDC requires a 10-year compliance period for occupier travel plans to reflect the FTP. As per NWLDC's response to Q8.3.3, the FTP should be amended to require commitment from all subsequent occupiers of units within the 10-year period, and not only from the first occupier.</p>	<p>The Applicants refer to their response to this question submitted at Deadline 1 (REP1-054).</p>
<p>9.0.4</p> <p>Container heights</p> <p>NWLDC is asked to provide a copy of the planning permission relating to the increase in height of the containers at the rail freight terminal along with all</p>	<p>This question appears to replicate the same requirements as Q1.2.7 above.</p> <p>In this respect, the planning decision notice and associated plans / documents connected with application references 18/01527/FULM and 22/00867/FULM, which permitted the increase in the</p>	<p>The Applicants note the response.</p>

documents necessary for its interpretation into the examination.	stacked height of containers within the rail terminal associated with EMGRFI, are submitted.	
<p>11.0.1</p> <p>Heritage Assessment – Intervisibility</p> <p>The assessment of significance in section 4 of appendix 12A [AS-053] excludes effects on the settings of various designated and non-designated heritage assets on the basis that there is no current intervisibility between the site and the various assets.</p> <p>Considering this history of the area, as demonstrated in the various maps submitted, and historic and contextual connections, could HE and NWLDC:</p> <p>(a) confirm whether they agree with the applicants' assessment in this regard;</p> <p>(b) whether any different conclusion arises in respect of the MCO application, having regard to the increase in permitted crane height;</p> <p>(c) if either HE or NWLDC does not agree, identify the heritage asset(s) (or categories of assets) for which setting effects should be reconsidered, including where setting contribution is derived from historic / contextual connections beyond intervisibility.</p>	<p>In terms of (a), NWLDC agrees with the applicants' assessment in this regard. In terms of (b), there are no differences in conclusions. On this basis, (c) is not applicable.</p>	<p>The Applicants note the response.</p>

<p>11.0.3</p> <p>Heritage Assessment</p> <p>Does either HE or NWLDC consider that any of the archaeological features identified within the EMG2 site are of equivalent significance to scheduled monuments so that they should be treated as if they were designated heritage assets. If so, could you please identify the feature(s) / area(s) and explain your reasoning.</p>	<p>NWLDC has discussed this question with LCC's archaeologist who provides archaeological advice to NWLDC on planning applications.</p> <p>LCC's archaeologist has confirmed that, having reviewed the submitted site information and attended the site during the archaeological investigation, there is no evidence to indicate the presence of archaeological features within the site which are of equivalent significance to scheduled / designated remains (as referred to in Footnote 75 of the NPPF). Based upon the completed investigation, the features identified and those anticipated should be treated as non-designated heritage assets under Paragraph 216 of the NPPF.</p>	<p>The Applicants note the response. A draft SoCG between the Applicants and Leicestershire County Council relating to archaeology was submitted at Deadline 1 [REP1-071]. The draft is close to agreement, and a final draft will be provided once final comments have been received and agreed.</p>
<p>11.0.6</p> <p>Langley Priory</p> <p>Appendix 12A paragraph 4.4 [AS-053] states that the Site does not form part of the setting of Langley Priory, whilst acknowledging that parts of the Site had an ownership association with the former Priory up to the early twentieth century. HE's guidance, referred to in paragraph 2.30 [AS-053], notes that "historical and cultural association may also form part of the asset's setting, which can inform or enhance the significance of a heritage asset." In its Relevant Representation (RR) Prologis UK 121 [RR-028D] states that the Heritage Statement confirms the application site comprises part of the</p>	<p>NWLDC agrees with the applicants' assessment.</p> <p>Land at Diseworth was acquired by the owners of Langley Priory from the 17th century (the Cheslyn and then Shakespeare families). The land was leased to agricultural tenants, rather than having been acquired to form part of a formal setting for the Priory. As such, the connection is not legible, and the land at Diseworth does not make a meaningful contribution to the setting or significance of Langley Priory.</p>	<p>The Applicants note the response. A draft SoCG between the Applicant and North West Leicestershire District Council relating to built heritage matters was submitted at Deadline 1 [REP1-068] and has since been agreed subject to final sign off. An update will be provided at Deadline 3.</p>

<p>setting of the Grade II* listed Langley Priory and attached railings.</p> <p>Do HE and NWLDC agree with the applicants' assessment that the proposed development would not affect the significance of Langley Priory as a designated heritage asset (Grade II*)?</p> <p>If either party disagrees with this assessment, could it please explain why it holds that view and how and to what extent would the significance of the asset be affected.</p>		
<p>11.0.8</p> <p>Non-designated heritage assets</p> <p>In paragraph 12.5.41 of chapter 12 of the Environmental Statement (ES) [AS-051] it is reported that the Diseworth conservation area appraisal noted as indicating that there are nearly 50 'Unlisted Buildings of Interest'.</p> <p>Could NWLDC please confirm whether any of these "Unlisted Buildings of Interest" have any additional designation status (for example, whether any are locally listed), and if so, identify which.</p> <p>Does NWLDC consider that the proposed development would have any effect on the significance of any of these heritage assets (using 'significance' as set out in the Glossary of the Framework in relation</p>	<p>The Old Vicarage on Grimes Gate, Diseworth is Locally Listed.</p> <p>NWLDC considers that the proposed development would not harm the significance of the Unlisted Buildings of Interest given that these buildings are largely screened from the proposed development by the built fabric of Diseworth village, and the ability to appreciate their historic and architectural value would not be harmed.</p>	<p>The Applicants note the response. A draft SoCG between the Applicant and North West Leicestershire District Council relating to built heritage matters was submitted at Deadline 1 [REP1-068] and has since been agreed subject to final sign off. An update will be provided at Deadline 3.</p>

<p>to heritage policy), and if so, please explain in brief which assets and why.</p>		
<p>12.0.3</p> <p>Landscape and Ecological Management Plan (LEMP) [APP-117]</p> <p>NWLDC is asked to critically evaluate the LEMP and provide specific comments in relation to its drafting.</p> <p>Given the long-term nature of the LEMP could both the applicants and NWLDC comment as to whether should this include replanting regimes in relation to failed landscaping, and if so, what changes are proposed.</p> <p>In its Relevant Representation (RR) NWLDC [RR-003] states that the draft requirements provide for replacement planting for 5 years (requirement 10(4)) and requests this be increased (stating a minimum of 15 years), noting the importance of landscaping for screening and NWLDC’s experience of establishing planting at EMG1.</p> <p>Please reconcile the heritage assessment’s reference to effect reduction following landscape establishment over a 15-year period, including the use of “with 15 years growth” in the residual effects table in Environmental Statement (ES) chapter 12 [AS-051].</p>	<p>Please find submitted a response to this question which has been provided by NWLDC’s Landscape Consultant.</p> <p>In addition, the below response has been provided by LCC Ecology, who advise NWLDC on ecology matters in connection with planning applications:</p> <p><i>“As per Q5.0.26 above, replanting regimes as well as ongoing monitoring / remedial measures should extend for longer than 5 years to ensure the long-term success of the planting / landscaping scheme. Specific management prescriptions should be included for all retained, enhanced and created habitats, as well as time scales for remedial measures and reporting. As per Q5.0.4 above, further consideration / inclusion of mitigation for veteran trees, including during operation, should be included in accordance with the NPPG on ancient and veteran trees.”</i></p>	<p>The Applicants note the response. An updated Landscape and Ecological Management Plan [APP-117] will be submitted at Deadline 3.</p>

<p>Could the applicants and NWLDC please explain whether the LEMP (and / or the relevant draft Development Consent Order (dDCO) requirement(s)) should secure replacement planting and maintenance over a period consistent with the mitigation relied upon in the ES, and if so, what change is proposed.</p>		
<p>13.0.3</p> <p>Scoping and assessment of risks</p> <p>Are you satisfied with the scoping and assessment of MAD in chapter 20 of the ES [AS-071] and appendix 20A [APP-198]?</p>	<p>NWLDC considers that the scoping and assessment of MAD in Chapter 20 of the ES [AS-071] and Appendix 20A [APP- 198] are satisfactory. The views of the CAA and EMIA should, however, be taken into account by the ExP.</p> <p>Notwithstanding the above, NWLDC observes that, in relation to "extreme temperatures: heatwaves, low (sub-zero) temperatures and heavy snow" within Appendix 20A [APP-198], it is indicated that emergency response and contingency plans are to be secured through the Requirements in the EMG2 DCO. Currently, the dDCO [PDA-004D] contains no Requirement which relates to this matter. This should be addressed by the applicants.</p>	<p>The Applicants note the response and on reflection consider this unnecessary as any operator would need to have an emergency response and contingency plan themselves as required by HSE. To include it as a requirement would therefore be duplicative and unnecessary. The Appendix will be updated accordingly.</p>
<p>13.0.16</p> <p>East Midlands Airport public safety zone</p> <p>Paragraph 4.4.18 of chapter 4 of the ES [AS-028] refers to the East Midlands Airport Public Safety Zone. Can the ExP please be provided with a copy of this by NWLDC, including any associated maps.</p>	<p>The East Midlands Public Safety Zone ('EMPSZ'), connected with Policy Ec6 of the adopted NWLLP, is as shown on the Policies Map associated with the adopted NWLLP, a copy of which is supplied (as required by Q1.1 above).</p> <p>However, it is noted that an interpretation of the EMPSZ is difficult for the purposes of development within the 2016 Order limits on the basis that the layout of this development, as built, is not identified on the Policies Map.</p>	<p>The Applicants note the response.</p>

<p>NWLDC, EMIA and the CAA are all asked to comment on the relationship between this and the proposed development in the context of policy Ec6 of the NWLLP, setting out whether the presumption against new development should apply in this particular case, and any limitations or restrictions that would need to be secured to make the proposed development acceptable.</p>	<p>The EMPSZ is also shown on the policies map associated with the emerging NWLLP, a copy of which has also been supplied (as required by Q1.1 above).</p> <p>Based on the policies map associated with the emerging NWLLP, none of the development within the 2016 Order limit lies within the EMPSZ and, consequently, the terms of Policy En6 of the adopted NWLLP would not be of relevance in the consideration of the application.</p> <p>No part of the development site associated with the EMG2 DCO lies within the EMPSZ.</p> <p>Even if a view was taken that the EMPSZ did impact on land within the 2016 Order limits, in light of the Policies Map associated with the adopted NWLLP, this impact would be marginal and would have the potential to impact (at most) the following works associated with the dMCO:</p> <ol style="list-style-type: none"> 1) Expansion of the EMGRFI management suite; 2) Enhancement to the public transport interchange associated with the installation of electric vehicle ('EV') charging infrastructure for buses and provision of a drop-off layby adjacent to the transport hub; and 3) Provision of a signalised pedestrian crossing over the EMGRFI exit road approach to the access junction to the EMGRFI connecting to the drop-off layby. <p>If such development was considered to lie within the EMPSZ, then it would lie outside the 1 in 10,000 risk contours, with none of the above works being "new</p>	
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	<p>or replacement development or changes of use of existing buildings.”</p> <p>Whilst the management suite would be ‘expanded’, the 2016 DCO did not restrict the number of people who could attend the management suite at any one time. NWLDC further considers that the proposed expansion is unlikely to significantly increase the number of people who would attend the management suite.</p> <p>NWLDC is therefore of the view that the expansion of the management suite, if it falls within the EMPSZ, would accord with criterion (b) of Policy Ec6: if the number of people working or congregating in the management suite were higher than at present, they would not exceed the unlimited number authorised by the 2016 DCO.</p>	
<p>13.0.19</p> <p>Major Hazard Site H4798</p> <p>In relation to the Major Hazard Site H4798 does the EMG2 project require evacuation procedures to be secured in the dDCO and dMCO in the event of an impending MAD?</p>	<p>It is NWLDC’s understanding that Major Hazard Site H4798 is located within the Order limits of the 2016 DCO, with hazardous substance consent being granted under application reference 19/01456/HSC on 24th February 2020. Such hazardous substance consent was associated with a natural gas refuelling station, which was permitted under application reference 19/01404/FULM on 18th October 2019 within Zone B (Intermodal Area) of the EMGRFI.</p> <p>To the knowledge of NWLDC, the planning permission granted under application reference 19/01404/FULM was never implemented, and as such expired in October 2022. On this basis, given that the natural gas refuelling station was not constructed, NWLDC assumes that no hazardous substances are stored on the site which would pose</p>	<p>The Applicants note the response.</p>

	<p>a risk to further development associated with the dMCO or development under the dDCO.</p> <p>NWLDC submits information in connection with application references 19/01404/FULM and 19/01456/HSC for consideration by the Exp.</p>	
<p>13.0.20</p> <p>Cumulative assessment of MAD risk</p> <p>Has chapter 20 of the ES [AS-071] assessed the cumulative risk associated with the East Midlands Freeport projects and other large scale projects in the locality? For example, could there be cumulative effects on aerodrome safeguarding through lighting or glint and glare from building materials etc.? Furthermore, has the cumulative displacement of farmland bird species and surface water drainage attenuation been considered in the context of bird strike risk?</p> <p>Does NWLDC, LCC or EMIA have any comments to make in this regard?</p>	<p>NWLDC understands that LCC has provided comments directly to the applicants in relation to bird strike, given that LCC is the Lead Local Flood Authority ('LLFA') and NWLDC's advisor on ecological matters.</p> <p>NWLDC would defer comment on this matter to EMIA, however, given the risks are specific to the operational safety of East Midlands Airport.</p>	<p>The Applicants note the response.</p>
<p>15.0.1</p> <p>Local need</p> <p>Could NWLDC please comment on the need for the proposed development. Specifically, whether it agrees with the applicants' analysis of need in the NWLDC area, in terms of the quantum of I&L floorspace that is required.</p>	<p>Section 4 of the applicants' ILNA [APP-223] prepared by Savills is a review of the emerging (new) Local Plan's evidence base. Section 7 provides Savill's assessment of future demand and Section 8 concludes on the demand-supply balance.</p> <p>Based on the Suppressed Demand methodology, Savills estimate the level of industrial and logistics demand in the FEMA (strategic and non-strategic) over a 16-year period is 1,960 hectares (=6,877,282</p>	<p>The Applicants refer to their response set out in section 9 of their response to North West Leicestershire District Council's Local Impact Report submitted at Deadline 2 (Document DCO 7.11 / MCO 7.11).</p>

	<p>sqm) (see Table 7.1 within [APP- 223]). Alternative scenarios are also presented.</p> <p>NWLDC has published an up-to-date assessment of the need for additional strategic warehousing in the L&L Study (as submitted). The L&L Study finds that there is a need for some 3.9 million sqm of additional strategic warehousing floorspace in the FEMA for the 22-year period between 2024 and 2046 (see Table 7.7, paragraph 7.37). This reduces to 3.06 million sqm once completions and commitments are taken into account.</p> <p>NWLDC considers that the L&L Study is the most up-to-date and cooperatively produced evidence on the needs of the strategic warehousing sector to inform planning across Leicester & Leicestershire (the FEMA).</p> <p>Section 4 of [APP-223] also analyses NWLDC’s evidence of non-strategic employment (offices, industry and smaller scale warehousing <9,000 sqm). This is the North West Leicestershire – The Need for Employment Land – Update Note (July 2024) prepared by Rapleys (‘the Rapleys Study’). The Rapleys Study identifies a need for circa 146,000 sqm of industrial (excluding strategic logistics / distribution) floorspace for the period 2024 – 2040 in NWL. This increases to 168,860 sqm once extended to cover the emerging Local Plan period to 2042 (18 years).</p> <p>The applicants have quantified the future need for industry and logistics of all scales. NWLDC has commissioned (including with Leicestershire partners) its own assessments to support its Local Plan and identifies a different level of future need.</p>	
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	<p>The table below includes annualised figures to enable clearer comparison:</p> <table border="1" data-bbox="734 280 1420 419"> <thead> <tr> <th></th> <th>Area</th> <th>Sqm</th> <th>Time period</th> <th>Sqm Annualised</th> <th>Uses</th> </tr> </thead> <tbody> <tr> <td>Savills (APP-223)</td> <td>FEMA</td> <td>6,877,282</td> <td>16 years</td> <td>429,830</td> <td>Industry; strategic warehousing; non-strategic warehousing</td> </tr> <tr> <td>L&L Study</td> <td>FEMA</td> <td>3,969,400</td> <td>22 years</td> <td>180,427</td> <td>Strategic warehousing</td> </tr> <tr> <td>Rapleys Study</td> <td>NWL</td> <td>166,860</td> <td>18 years</td> <td>9,270</td> <td>Industry; non-strategic warehousing</td> </tr> </tbody> </table> <p>Consequently, NWLDC:</p> <ul style="list-style-type: none"> - agrees that there is a future need for additional industry / warehousing (small and strategic scale); but - does not agree with the applicants' assessment of the quantum of the future need. 		Area	Sqm	Time period	Sqm Annualised	Uses	Savills (APP-223)	FEMA	6,877,282	16 years	429,830	Industry; strategic warehousing; non-strategic warehousing	L&L Study	FEMA	3,969,400	22 years	180,427	Strategic warehousing	Rapleys Study	NWL	166,860	18 years	9,270	Industry; non-strategic warehousing	
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<p>15.0.7</p> <p>East Midlands Freeport Rates Relief</p> <p>Could NWLDC confirm whether it has set up a local business rates relief scheme under section 47 of the Local Government Finance Act 1988 for the application sites, or whether it would intend to do so in the event that consent was granted and implemented.</p> <p>Could NWLDC also confirm whether it has, is or would be seeking reimbursement from central government under section 31 of the Local Government Act 2003.</p>	<p>NWLDC can confirm that a local business rates relief scheme under section 47 of the Local Government Finance Act 1988 has been set up and that NWLDC would be seeking reimbursements from central government under section 31 of the Local Government Act 2003.</p> <p>The policy associated with this matter is submitted for the information of the Exp.</p>	<p>The Applicants note the response.</p>																								
<p>18.0.4</p> <p>Sectoral reliance and socio-economic resilience of North West Leicestershire</p>	<p>The Transport and Storage Standard Industrial Classification ('SIC') code used in Figure 5.7 of Chapter 5 of the ES [AS- 030] includes activities such as air transport, cargo handling and the</p>	<p>The Applicants refer to their response to this question submitted at Deadline 1 [REP1-054].</p>																								

<p>With reference to figure 5.7 of chapter 5 of the ES [AS-030], is there a risk of North West Leicestershire becoming over reliant on the transport and storage sector? Consequently, is there a socio-economic resilience issue that needs to be explored? For example, nearly a quarter of employment in North West Leicestershire is in the transport and storage sector. If there was a downturn in this sector, would socioeconomic receptors in North West Leicestershire be disproportionately affected compared to other areas of the UK?</p>	<p>operation of rail freight terminals in addition to more generalised warehousing and storage. It encompasses a wider range of activities than its title may suggest.</p> <p>NWL is home to East Midlands Airport (“the UK’s busiest ‘pure’ cargo airport and second in the country in terms of total cargo”) and the only Strategic Rail Freight Interchange (‘SRFI’) in Leicestershire. It is also served by three major trunk roads (M1, M / A42 and A50). In these circumstances, it is inevitable that NWL employment levels in this broad sector are significantly higher than the comparator areas shown in Figure 5.7. NWLDC agrees that if there were a downturn in this sector, then the District would be disproportionately affected compared to other areas of the UK. An action that NWLDC can take to mitigate against this is to ensure that other sectors are supported through site allocations in the emerging Local Plan.</p> <p>NWLDC notes that the dDCO identifies advanced manufacturing as part of the proposed mix of uses and considers that such use should be secured in order to address this matter as raised by the Exp.</p>	
<p>19.0.11</p> <p>Isley Woodhouse development</p> <p>LCC is concerned to ensure that none of the proposed development would prejudice the delivery of any of the proposed allocations in the emerging local plan. Could the applicants please explain:</p>	<p>Isley Woodhouse is a site allocation within the emerging Local Plan. The Isley Woodhouse site promoters are also members of the Growth Point consortium alongside the applicants. As detailed within the response from LCC to Q19.0.6, LCC wish to see land along the EMG2 DCO main site frontage with the A453 safeguarded and dedicated as public highway to allow future delivery of a dualling scheme to address the impacts of wider growth. Without the</p>	<p>The Applicants refer to their response to this question submitted at Deadline 1 [REP1-054].</p>

<p>(a) what measures it has undertaken to ensure that this does not occur; and</p> <p>(b) provide us with evidence to support any response? LCC, NH and NWLDC are all asked for comments in relation to the proposed Isley Woodhouse development.</p>	<p>safeguarding of this land, there is a risk that development permitted as part of the EMG2 DCO could fetter delivery of wider growth including, but not limited to, the Isley Woodhouse emerging allocation.</p> <p>The following evidence is in preparation to support the emerging Local Plan:</p> <ul style="list-style-type: none"> - Transport modelling which will reveal the measures needed to mitigate the highways impacts of the emerging Local Plan, including development delivered at Isley Woodhouse, during the plan period (to 2042). - An Infrastructure Delivery Plan which will identify all the requisite infrastructure required to mitigate the impacts of the development in the emerging Local Plan. <p>The specific site allocation policy for the Isley Woodhouse new settlement (Policy IW1) will set out the development requirements with respect to infrastructure.</p> <p>Thoe above evidence documents and Policy IW1 are currently in preparation. Once they are finalised / published, they can be provided to the ExP as required.</p>	
<p>19.0.20</p> <p>Work No 19</p> <p>In paragraph 6.7.1 of chapter 6 of the ES [AS-032], fifth bullet, tenth sub-bullet, reference is made up upgrading footpath L57 between Diseworth Lane and Castle</p>	<p>NWLDC defers a response to this question to LCC as the Highways Authority.</p>	<p>The Applicants note the response.</p>

<p>Donnington. This indicates that payment was made to LCC until the Planning Obligation for EMG1, but the works have never been carried out and the ExP was</p> <p>(a) Could LCC explain its understanding on this matter.</p> <p>(b) Could the applicants please provide us with a copy of the s106 Planning Obligation.</p> <p>(c) Could the applicants please explain why this link is justified in relation to the current application of which it forms part?</p>		
<p>19.0.25</p> <p>Sustainable Transport Strategy [APP-084]</p> <p>Could NWLDC, LCC and NH comment on whether they consider that the one week taster bus tickets would be sufficient to provide an incentive? If they consider a different period would be more appropriate, could they provide that timeframe, providing a justification.</p>	<p>It is standard practice, as part of the grant of planning permissions for development of this nature, that the applicant provides one 6-month bus pass to each employee at no cost to the employee. This is to encourage new employees to use bus services and therefore establish changes in travel behaviour from first occupation and promote use of sustainable travel modes other than the car</p> <p>The provision of a 1-week taster bus ticket would appear to NWLDC to be highly inadequate by comparison, particularly when accounting for the scale of development to be delivered and the levels of employment during both the construction and operational phases. In addition, the 1-week ‘taster’ could be manipulated so that it is during a week when bus services may be disrupted (i.e. by roadworks in the area, adverse weather conditions and or events at Donington Park Race Track and EMA). If such disruption were to occur, then it is</p>	<p>Section 7.48 of the STS [APP-084] sets out the Applicant’s approach to providing a fully funded bus pass to employees, at no cost to the employee. This reflects the successful approach at EMG1, where a one-week free bus pass is offered to eligible new starters. At EMG1, in 2024 16% of employees commuted by bus, surpassing the 10-year target of 10%, indicating the approach to supporting bus use at EMG1 has been effective.</p> <p>Eligibility for the one-week bus pass (to be applied at EMG2) is targeted to employees who have an employment contract at the site, live on a bus route to EMG1, are not already commuting by bus, and have not previously received a one-week bus pass. This ensures the Travel Plan Fund is targeted at those with a viable bus option to ensure responsible spend from the EMG2 Travel Plan Fund.</p>

	<p>unlikely that future employees would utilise public transport.</p>	<p>At EMG1, the Site-Wide Travel Plan Coordinator administers the bus pass scheme, including promotion, eligibility checks, liaison with operators, issue of passes and fund draw-down. Equivalent administration is proposed for EMG2 as it falls within the remit of the Site Wide Travel Plan Coordinators responsibilities and will be funded from the EMG2 Travel Plan Fund, which will be secured through the DCO.</p> <p>Section 7.49 of the STS [APP-084] explains why a six-month free bus pass is not offered initially. The one-week pass is intended as a taster to encourage trial of bus travel at first occupation, after which employees can choose to purchase a longer-term season ticket.</p> <p>Given this approach has delivered strong bus mode share at EMG1, clarification is sought on the need for a six-month pass, which the Applicant views as appropriate as a fallback measure if targets are not met.</p>
<p>19.0.26</p> <p>Work No. 15</p> <p>(a) Could the applicant's explain why the pedestrian access across the A453 would be an uncontrolled crossing rather than integrated into the existing junction as a controlled crossing?</p> <p>(b) Could LCC and NWLDC comment on the proposition that this should be so integrated.</p>	<p>NWDLC defers a response to this question to LCC as the Highways Authority.</p>	<p>The Applicants note the response.</p>

<p>(c) Would this have any implications for the traffic modelling.</p>		
<p>21.0.2</p> <p>Operational Environmental Management Plan</p> <p>The EA [RR-016] notes that the applicants should commit to producing an OEMP in order to secure appropriate operational mitigation related to pollution of the water environment. Please can the EA advise if there are any other areas where an OEMP could help mitigate the proposed development's environmental impacts. For example, could an OEMP help mitigate potential operational emissions and air pollution etc. and are there any precedents for such an approach in other made DCOs?</p> <p>Please can the applicants comment whether an OEMP would be necessary to help mitigate operational environmental impacts. If the applicants are of the view that an OEMP would not be necessary, please identify existing provisions within the dDCO and dMCO that would secure the necessary mitigation measures for the operational phase of the proposed development.</p> <p>Does NWLDC and LCC have a view on whether an OEMP would be necessary in the context of the above?</p>	<p>NWLDC would defer any decision on this matter to the EA.</p>	<p>The Applicants note the response.</p>

<p>22.0.2</p> <p>CEMP – Comprehensive approach</p> <p>Paragraph 4.2 indicates that a P-CEMP would be prepared for each component of development and indicates that more than one P-CEMP may be required for a particular component. Apart from any inefficiencies, how does the applicants consider it will be possible to ensure a comprehensive and coordinated approach across a single phase of the development without leaving the onus on the approving body? Is the comment in paragraph 8.1 that “it is assumed that only one contractor shall be working on any part of the development at any one time” credible?</p>	<p>NWLDC’s Environmental Protection Team does not consider that the comment is credible. It is also considered that such a scenario likely leads to a Requirement which is not precise and enforceable given that it would be difficult for NWLDC to effectively monitor whether or not only one contractor is working on any part of the site at any one time, as well as which P-CEMP the applicants may be operating associated with a particular component if multiple P-CEMPs are submitted and approved for the same particular component (or on the wider site associated with another component).</p> <p>NWLDC is happy to review this matter further as and when the applicants provide their response to the Exp.</p>	<p>The Applicants refer to their response to this question submitted at Deadline 1 [REP1-054].</p>
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APPENDIX 2

RESPONSE TO SUBMISSIONS MADE BY LCC

Post hearing action points		
No.	Matter	Applicants' Response
ISH1 AP No. 18	The Applicant has included a notional quantum of movements from EMG2 to/from EMG1 in their assessment. An explanation of how this quantum was reached, and the proposed interaction between the two sites is best explained by the Applicant.	<p>The Applicants responded to this action point as follows:</p> <p><i>The PRTM 2019 and 2023 models include EMG1 as a zone which results in a proportion of HGVs being assigned between EMG2 and the EMG1 rail freight terminal. The majority of development traffic from EMG2 is however assigned further afield across the highway network.</i></p> <p><i>It was agreed with the Transport Working Group that a higher proportion of HGVs could travel between EMG2 and the EMG1 rail freight terminal. Therefore, a sensitivity test has been carried out that adopts the same methodology undertaken in the EMG1 DCO Transport Assessment to assign 40 HGVs in the morning peak hour and 44 HGVs in the evening peak hour between EMG2 and the EMG1 rail freight terminal (equating to approximately one third of the total HGVs).</i></p> <p><i>This change was tested in the VISSIM model, which demonstrated there would be no material impacts, nor any changes required to the proposed mitigation scheme.</i></p> <p><i>The development of the EMG2 site would have no impact on the surveyed flows from EMG1.</i></p>

ISH2 Draft DCO	Article 13 – Accesses - LCC understands that the Applicant is considering whether temporary construction access will be required to the LRN. LCC reserves the right to respond to this matter in detail once this information has been received.	See the Applicants' response to LCC's response to ExQ 8.1.2 below.
ISH2 Draft DCO	Article 38 – Felling or lopping of trees and removal of hedgerows - LCC consider a 25m distance from the Order limits to allow works to trees and hedgerows to be excessive and unnecessary and the Applicant should reconsider this position. In addition, the Applicant should clearly document trees and hedgerows with the extents of the public highway for which LCC is responsible which could be impacted by this buffer. LCC reserves the right to respond to this matter in detail once this information has been received.	See the Applicants' response to LCC's response to ExQ 8.1.4 below.
ISH2 Draft DCO	Schedule 5 Part 1 Public Rights of Way LCC have requested that the Applicant consider if L45/L57 can be granted cycle track designation in addition to PRow designation i.e. if cycle track designation is granted, will these rights of way be lost from the definitive map	See the Applicants' response to paragraph 3.22 of LCC's written representation below.
ISH2 Draft DCO	Schedule 5 Part 2 New Public Rights of Way to be created LCC have advised the Applicant that the proposed Public Right of Way between points 16 to 6 on Access and Rights of Way Plan sheet 1 of 2 [APP-037D] offers no wider public benefit and should be designated as a permissive path to be maintained by the Applicant in perpetuity. This is a matter of disagreement between LCC and the Applicant	See the Applicants' response to paragraph 3.23 of LCC's written representation below.

ISH2 Rule 6 letter R6D19	Signage – LCC has sought confirmation from the Applicant of what existing signage on the Local Road Network is proposed to be amended	Signage works within the highway works is to be dealt with in detail at the detailed design stage, Appendix 28 of the TA [REP1-031 – REP1-050] provides details of the proposed changes to directional signage. The change to the dDCO [PDA-004D] to include for signage works in Article 18 provides a mechanism for other signage works outside of the highway works to be carried out. This is not foreseeable at this stage but could typically arise as a result of a Stage 3 Road Safety Audit.
ISH2 Draft MCO	LCC maintains that all proposed works at the existing EMG1 access should be captured in the MCO and not split between the MCO and the DCO. LCC awaits a response from the Applicant on this matter	See the Applicants' response to LCC's response to ExQ 9.0.1 below.
Written representations		
No.	Matter	Applicants' Response
Traffic and Transport		
3.4 and 3.5	<p>The EMG2 submission therefore forms a singular part of an emerging whole. The acceptability and suitability of these proposals, in the context of the wider growth delivery strategy, may not fully be known during the lifetime of the Examination.</p> <p>Notwithstanding this, the LHA acknowledges that this lack of a wider delivery strategy cannot preclude the consideration and advancement of the EMG2 application and therefore the LHA has committed to engage and consider the development proposals of EMG2 on its own merits.</p>	LCC refer to the Consortium work referred to in the application documentation but also in the Joint Position Statement between National Highways and the Applicants submitted at Deadline 1 [REP1-060D]. From that statement, it is clear that the DCO highway works are considered by National Highways to be consistent with the wider emerging proposals for J24 and National Highways are content that the works are both acceptable and suitable in the context of the wider growth delivery strategy.
3.6 and 3.7	As indicated in the LCC formal response to non-statutory consultation dated 28th July 2025 [AoC-003D] the development proposals differ in quantum and land use from that which have been tested within the Pan	The Applicants' view is that LCC have been consistent in their advice however members of the TWG have not approached the issue of mezzanines in the same way. National Highways for example are clear on the reduced traffic generation of mezzanines (often accounted

	<p>Regional Transport Model (PRTM). In short, the development proposals have evolved to include an additional 100,000sqm of floorspace.</p> <p>The TWG has been consistent in its advice that the quantum of land use as applied for should be assessed based on the trip rates agreed by the TWG.</p>	<p>for as equivalent of 50% of ground floor space on schemes such as this) based on the experience of EMG1, albeit they have requested the comfort of requirement 27 of the DCO [PDA-004D].</p> <p>An explanation of the lower trip rate for mezzanines based on EMG was submitted to the TWG via email on 05 March 2025 (Appendix 35 of the Transport Assessment) and this helped inform National Highways' decision. LCC have not, to date, responded to that information.</p> <p>To overcome LCC's concerns, an assessment has been undertaken that assesses the perceived missing 100,000sqm GFA of floorspace on the local road network. This confirms that, even if trip rates are applied to the total quantum of mezzanine floorspace at 100% of the rate for ground floor space as a worse than worst-case, there would be negligible additional impacts on the local road network and additional mitigation would not be required. This is presented in the PRTM 2023 report submitted at Deadline 1 [REP1-058].</p>
3.8	<p>The LHA had suggested that the Applicant could consider revising their trip rates to account for the inclusion of mezzanine floorspace. However, this approach was not adopted and therefore unconventionally, the Applicant has instead proposed wording as a DCO requirement (no.27) [PDA-005D] to seek to limit the highway impact of the additional mezzanine floorspace pursued. The Applicant has indicated agreement to this approach has been found with some TWG parties. However, agreement has not been reached with LCC.</p>	<p>Detailed evidence, including recorded EMG1 trip rates, was provided via email to LCC on 05/03/2025, which in the Applicants' view provides suitable comfort to LCC that the originally agreed trip rates provide more than sufficient robustness when compared to EMG1 surveyed data.</p> <p>Hence the increase in mezzanine floor area, using a trip rate of 50% of the ground floor rate, would have no material impact on the PRTM modelling work undertaken. Modelling at 100% trip rates for all GFA, including mezzanine floor space, would provide an unnecessary and unrealistic worst-case assessment.</p> <p>LCC have not responded to the technical justification provided to date and were most recently requested to respond on 20/03/2026.</p>

3.9 and 3.10	<p>In addition, the Applicant has provided LCC with a breakdown of the additional trips if the agreed trip rates were applied to the additional 100,000sqm mezzanine floorspace and how these would be assigned to the Local Road Network (LRN) in a without mitigation scenario. Without prejudice to the above, the LHA will consider the potential impact of these 'additional' flows on the LRN. However, LCC notes that the Applicant is yet to submit this information into the Examination.</p> <p>The LHA have suggested to the Applicant that based on concerns over the acceptability and enforceability of a requirement to control mezzanine use, concerns also expressed by North West Leicestershire District Council, the full quantum of floor space should be modelled to confirm the acceptability of the mitigation strategy or otherwise.</p>	The LRN note (included within Document DCO 7.8) [REP1-058] , was provided to LCC on 13 March 2026 and formally submitted at Deadline 1.
3.11 and 3.12	<p>A significant proportion of the transport assessment work undertaken by the Applicant to date has used the pre-covid PRTM 2019 strategic transport model. The LHA is pleased that the Applicant committed to undertake a supplemental test of the development and infrastructure proposals in the post-covid PRTM 2023 model.</p> <p>The LHA are comforted by feedback through the TWG which identifies positive progress has been made with this (PRTM 2023) work. LCC will comment on the outcomes of this work when completed and submitted by the Applicant into the Examination.</p>	LCC and National Highways were issued this information for agreement on 02/03/2026. This information has since formally been submitted at Deadline 1 [REP1-058] .
3.13 and 3.14	The LHA has been consistent in its advice that assessment and mitigation of the impact of the development proposals on the Strategic Road Network	The modelling information was originally provided to LCC on 02 March 2026 and has formally been submitted at Deadline 1 (Document DCO 7.8) [REP1-058] .

	<p>(SRN) should be considered first, and that the LRN impact should be considered in its residual state following agreement of strategic infrastructure mitigation on the SRN.</p> <p>The LHA continues to be engaged in the advancement and design of the strategic infrastructure proposals where they impact the LRN. Through the TWG the LHA has recently signed off the Stage 1 Road Safety Audit (RSA1) and amended designs for the LRN (not yet submitted to the Examination by the Applicant). However, it remains the case that design changes or additional mitigation may be required following completion of the aforementioned modelling work.</p>	<p>There have been no design changes as a result of the PRTM 2023 modelling, which has confirmed that the design work completed using PRTM 2019 outputs is appropriate.</p>
3.15	<p>The Applicant has acknowledged the risks associated with submission of a DCO application and fixing of an application boundary in advance of this work being undertaken.</p>	<p>See above response to paragraph 3.14.</p>
3.16	<p>Whilst the LHA is generally content with the proposed designs at this stage, the LHA reserves its position on this matter pending the resolution of PRTM2023 modelling, final understanding of the impacts on the LRN, and submission of the relevant drawings and supporting RSA1 into the Examination for formal response.</p>	<p>See above response to paragraph 3.14.</p>
3.17	<p>it remains the case that design changes or additional mitigation may be required following completion of the aforementioned modelling work which may result in requests for further departures</p>	<p>See above response to paragraph 3.14.</p>

3.18 – 3.20	<p>Transport evidence identifies significant congestion and capacity challenges in forecast modelling work along the A453 corridor north of the application site [APP-082].</p> <p>LCC wish to see land along the EMG2 main site frontage with the A453 safeguarded and dedicated as public highway to allow future delivery of a dualling scheme to address the impacts of wider growth. Without this safeguarding, there is a risk that the EMG2 development (if permitted) could fetter delivery of wider growth, including, but not limited to, the Isley Woodhouse emerging allocation.</p> <p>LCC reserves its position (with re. to safeguard land along the EMG2 main site frontage with the A453 for future dualling) until a revised dDCO is submitted that reflects this change together with an associated plan</p>	<p>The dualling of the A453 is not required to mitigate the impact of EMG2. At the request of LCC, the Applicants have indicated that it is prepared to safeguard land should it be required for that purpose in the future. Safeguarding the land merely ensures that no works can be carried out on the land which would prevent the A453 dualling from being undertaken if and when such a scheme comes forward. See also the Applicants' response to LCC's response on ExQ 19.0.6 below.</p>
3.21 – 3.22	<p>Proposed active travel provision includes works to Hyam's Lane to provide a dedicated cycle link that will form part of an extension to the existing National Cycle Route 15 [APP-042D].</p> <p>The LHA has raised concerns over the mechanism to allow cycle access in conjunction with a Public Right of Way (PRoW) meaning that the PRoW is not removed from the definitive map. The Applicant is considering how this can be facilitated and LCC awaits their response.</p>	<p>The Applicants note that the LCC mapping which shows highway boundaries and Public Rights of Way shows other Cycle Tracks (being a public highway with rights only for pedestrians and cyclists) as public highway and see no reason why the same would not apply to Hyams Lane and the upgraded footpath L57.</p>
3.23	<p>The Applicant has proposed a new PRoW (points 6 to 16) [APP-037D] to be provided along the eastern boundary of the main EMG2 site. The LHA does not consider that this footpath would provide sufficient public benefit and utility to be formally adopted as a PRoW and</p>	<p>The Applicants do not propose to amend this for the following reasons:</p> <ul style="list-style-type: none"> • The proposed public footpath between points 6 and 16 has been indicated as such at and since the statutory consultation in early 2025 and this point has only been raised by LCC following the submission of the DCO Application. The wider community is

	considers that this should be a permissive path. The LHA has requested that the Applicant amend the dDCO accordingly.	<p>expecting to have the benefit of a public footpath.</p> <ul style="list-style-type: none"> The footpath provides pedestrian connectivity from the current 'dead end' of Long Holden up to Hyams Lane and the A453, and therefore the Applicants consider that there is sufficient public benefit and utility for it to be a public footpath.
3.24	The Applicant has proposed a new PRow (points 10 to 11) [APP-037D] and a short section of footway directing pedestrians to cross the A453 at the existing signal-controlled junction for East Midlands Airport. However, this signal controlled junction has no pedestrian provision	The highway plan general arrangement sheet 1 of 4 [REP1-016D] along with the description of Works No. 15 confirm that it is proposed that an uncontrolled crossing is provided across the A453 within the existing signalised junction.
3.25	Moreover, neither a detailed design, assessment, or RSA1 appear to have been produced by the Applicant for this crossing point. The appropriateness of the crossing should be determined via an assessment based on Traffic Signs Manual Chapter 6 guidance and a comprehensive package of information submitted to the Examination. LCC reserves the right to comment further on the safety and suitability of this crossing provision.	<p>The detailed design of the uncontrolled crossing would be undertaken at the detailed design stage and the design reviewed and approved by LCC in accordance with the protective provisions.</p> <p>Given its purpose is to connect to the proposed Public Right of Way through the community park the use of the crossing is expected to be very low and during daylight hours only as, even though the junction is lit, it links to a public footpath that is not lit. As such the Applicants consider the provision of an uncontrolled crossing to be appropriate and proportionate in these circumstances.</p> <p>Traffic Signs Manual Chapter 6 section 15.3 deals with uncontrolled crossings. The physical works are expected to consist of minor works to the existing islands to provide drop kerbs and tactile paving. The existing islands are a minimum of 2m wide which meets the 'preferable' refuge width set out at para 15.3.2, and well above the 1.2m absolute minimum.</p> <p>The Applicants confirm that the crossing was included within the Audit Brief for the Stage 1 Road Safety Audit and that no problems were identified as part of the Audit, which has been approved by LCC.</p>

3.26 – 3.27	<p>The LHA is aware that EMG2 will adopt the Sustainable Transport Working Group (STWG) approach that has been successful for EMG1.</p> <p>The LHA is generally content with the submitted Framework Travel Plan (FTP) [APP-085], public transport proposals, and the arrangements for the STWG. The main outstanding issue lies in the mechanism by which proposals will be secured and funded. LCC suggests that this should be by way of a s106 Agreement and awaits confirmation from the Applicant. LCC has also requested changes to the associated dDCO requirement.</p>	<p>LCC does not explain why a separate s106 Agreement is proposed when the matters raised can be secured in the DCO itself.</p> <p>With regards to the mechanism by which the proposals and funding to deliver the Framework Travel Plan (FTP) [APP-085] will be secured, this is detailed in Requirement 4(1) of the draft DCO [PDA-004D], which required the FTP to be complied with at all times.</p> <p>The funding allocations for delivering the required measures in the Sustainable Transport Strategy (STS) and FTP have been detailed in the paragraph 5.6 of the FTP [APP-085], with a ring-fenced EMG2 Travel Plan Fund of £0.85m and a EMG2 Bus Fund of £1.45m, both of which are secured through requirement 4(3) of the draft DCO [PDA-004D].</p> <p>The two funds will be held by SEGRO in indexed-linked accounts on behalf of the EMG2 Sustainable Transport Working Group (STWG), for the duration of the STS and FTP delivery and monitoring periods.</p> <p>The EMG2 STWG voting members, which includes LCC, will have voting rights to allocate these funds for the delivery of measures outlined in the STS and FTP.</p>
3.28	<p>LCC does however require the FTP [APP-085] to be amended such that occupier travel plans apply for a 10-year period from occupation and this requirement applies to subsequent occupiers of each plot.</p>	<p>Section 8.1 of the EMG2 Framework Travel Plan (APP-085) outlines that:</p> <p><i>“The FTP monitoring period will be from first occupation until five years following full occupation of EMG2”</i></p> <p>This approach aligns with Leicestershire County Council’s (LCC) 2013 Workplace Travel Plan guidance, which notes:</p> <p><i>‘monitoring could be in perpetuity, more realistically, the ‘life’ of a travel plan is defined as from first occupation to at least 5 years, following full occupation of a site’.</i></p>

		<p>For the Occupier Travel Plans which fall under the Framework Travel Plans, the Applicant is intending the same monitoring timeframe.</p> <p>In the event that an occupier does change before the end of the Occupier Travel Plan monitoring period (for example, three years after first occupation of the unit), the Site Wide Travel Plan Coordinator will work with the new tenant to make them aware of their responsibilities to prepare an Occupier Travel Plan and the need for them to deliver, manage and monitor it for the remainder of the monitoring period, which is applicable from the date the unit was first occupied.</p>
3.29	<p>LCC also requires the Applicant to provide one six-month bus pass to each employee at no cost to the employee. This is to encourage new employees to use bus services, to establish changes in travel behaviour from first occupation, 6 and promote usage of sustainable travel modes other than the car. This should be secured via an appropriate mechanism, which LCC consider to be a s106 Agreement.</p>	<p>Section 7.48 of the STS [APP-084] sets out the Applicants' approach to providing a fully funded bus pass to employees, at no cost to the employee. This reflects the successful approach at EMG1, where a one-week free bus pass is offered to eligible new starters. At EMG1, in 2024 16% of employees commuted by bus, surpassing the 10-year target of 10%, indicating the approach to supporting bus use at EMG1 has been effective.</p> <p>Eligibility for the one-week bus pass (to be applied at EMG2) is targeted to employees who have an employment contract at the site, live on a bus route to EMG1, are not already commuting by bus, and have not previously received a one-week bus pass. This ensures the Travel Plan Fund is targeted at those with a viable bus option to ensure responsible spend from the EMG2 Travel Plan Fund.</p> <p>At EMG1, the Site-Wide Travel Plan Coordinator administers the bus pass scheme, including promotion, eligibility checks, liaison with operators, issue of passes and fund draw-down. Equivalent administration is proposed for EMG2 as it falls within the remit of the Site Wide Travel Plan Coordinators responsibilities and will be funded from the EMG2 Travel Plan Fund, which will be secured through the DCO.</p>

		<p>Section 7.49 of the STS [APP-084] explains why a six-month free bus pass is not offered initially. The one-week pass is intended as a taster to encourage trial of bus travel at first occupation, after which employees can choose to purchase a longer-term season ticket.</p> <p>Given this approach has delivered strong bus mode share at EMG1, clarification is sought on the need for a six-month pass, which the Applicants view as appropriate as a fallback measure if targets are not met.</p>
3.30	The LHA is broadly content with the findings of the WCHAR report, subject to the comments above on the proposed uncontrolled crossing the A453 at the East Midlands Airport access signalised junction.	The Applicants note the response.
3.31	The LHA does not consider that there are any existing patterns of PICs which would be exacerbated on the LRN within the scope of assessment considered by the Applicant. However, the LHA reserves its position on this matter pending the resolution of PRTM2023 modelling and final understanding of the impacts on the LRN.	The Applicants note the response.
3.32 – 3.33	<p>With regard to volumes of construction traffic, the submitted Transport Assessment [APP-080] quotes the East Midlands Freeport Model (EMFM) Forecasting Report for the construction traffic scenario (July 2025) that, ‘the impact of construction traffic on the local road network is forecast to be minimal’.</p> <p>The LHA notes however that the assessment of materials and waste has not used the most up to date 2024 data available to the Applicant which could affect</p>	An updated assessment has been undertaken using 2024 data and details were presented to LCC by email on 25.02.2026. The 2024 data does not affect the traffic data, the Applicants' traffic consultants have sought on a number of occasions to meet with LCC to seek to discuss and conclude this matter.

	volumes and hence traffic movements. The LHA awaits a resolution on this matter before commenting further.	
3.34	The LHA also notes that the Applicant does not appear to have considered the impact of construction of highway mitigation on the SRN and LRN. The LHA is concerned that such impacts are likely to be significant, take place over a prolonged period, and could in themselves require mitigation	The Applicants have considered the construction stage within the ES. The Construction Environmental Management Plan (CEMP) is used as the control mechanism to avoid unacceptable impacts. Highway works that restrict capacity will not be undertaken during the peak hours, and would have to be managed by road space bookings etc. Further, phase specific p-CEMPs will be produced and approved by LCC and National Highways as appropriate prior to each phase of construction of the proposed highway mitigation and require approval to traffic management measures amongst other matters.
3.35	LCC has made the Applicant aware that the construction programme will be impacted by access to the road network in this traffic sensitive area with constraints around the operation of East Midlands Airport and significant scheduled events at the Donington Park Circuit.	The Applicants note the response and confirm that they have regard to the same in preparing the Construction Traffic Management Plan appended to the Construction Environmental Management Plan (CEMP) to be submitted at Deadline 2.
3.36 – 3.38	<p>The following Traffic Regulation Orders (TRO's) are proposed, which are shown in drawing DCO2.13 [APP-055D]:</p> <ul style="list-style-type: none"> • No waiting at any time restrictions to protect a turning head on Hyam's Lane; and • Prohibition of motor vehicles along the section of Long Holden which passes through open fields. <p>The LHA is content with the proposals. No speed limit changes are proposed on the LHA's network.</p> <p>Whilst the LHA is generally content with the proposed TROs at this stage, the LHA reserves its position on this matter pending the resolution of PRTM2023 modelling and final understanding of the impacts on the LRN,</p>	See above response to paragraph 3.14 above.

	should any further TROs be required.	
4.1 – 4.4	<p>LCC advised the Applicant that the Environment Agency’s 2024 Waste Data Interrogator (WDI) (released 23rd September 2025) was available to them prior to submission of the application, and that this data should have been used in the Environmental Statement (ES) Chapter 18 assessment [APP-185].</p> <p>LCC consider that it is for the Applicant to demonstrate to the Examination the impact of using the most up to date data, and that ES Chapter 18 [APP-185] should be amended accordingly, together with any other assessment reliant on this data, including construction traffic movements.</p> <p>In addition, LCC has advised the Applicant that there appears to have been a conflation of landfill and general capacity. The site inventory appears to show changes in capacity. Again, LCC has advised the Applicant to submit information to the Examination that clarifies this matter.</p> <p>LCC has raised concerns with the Applicant that the commitment to implementation of the Site Waste Materials Management Plan, its review, and associated approval process, appears to be absent from the requirement in the dDCO [PDA-005D]. LCC understands that the Applicant is considering revisions to Requirement 11 and Requirement 24 to address this concern.</p>	<p>The Applicants refer to their response to ExQ14.0.1 [REP1-054] and their response to Leicestershire County Council’s relevant representations [REP1-051D].</p> <p>In response to the matters raised by Leicestershire County Council, an updated Chapter 18 was submitted at Deadline 1 [REP-029]. The background to this chapter update is provided in three technical notes appended to this document [Annexures 2A, 2B and 2C].</p> <p>The wording of Requirement 11 has been revised and an updated draft DCO [PDA-004D] has been submitted at Deadline 2.</p> <p>The Applicants confirm that they are continuing to engage with Leicestershire County Council on these matters.</p>
5.1 – 5.5	While not specifically named as a statutory consultee within the list of consultees in Schedule 1 of The Infrastructure Planning Applications: Prescribed Forms	The Applicants confirm that the wording of Requirement 17 has been updated. An updated draft DCO [PDA-004D] has been submitted at Deadline 2.

	<p>& Procedure Regulations 2009, under Schedule 4 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 LCC in its capacity as the Lead Local Flood Authority (LLFA) is a statutory consultee for major planning applications in relation to surface water.</p> <p>The LLFA was consulted by the Applicant at an early stage to allow for input into the development of the surface water strategy. Consequently, the proposals as presented in the Sustainable Drainage Statement EMG2 Works [APP-149] and the associated surface water drainage strategy drawing reference EMG2-BWB-WAT-ZZ-DR-CD-0501-S2-P06 (Main Site Concept Drainage Strategy) [APP-149] are in-line with the requirements that the LLFA would typically apply to major development.</p> <p>However, LCC has consistently raised concerns with the Applicant regarding the wording of associated requirement 17 as reflected in [RR-002]. As currently drafted the wording only commits the Applicant to submitting details, and not implementation of works.</p> <p>Typically, any works which alter the flow of any existing ordinary watercourse (including ditches) either permanently or during construction, require consent from the LLFA under Section 23 of the Land Drainage Act 1991. It is understood that if permitted, the DCO would grant the developer the right to forego this requirement. However, it is requested that this process be observed by the Applicant to demonstrate flood risk mitigation and to ensure the LLFA is abreast of associated works being undertaken.</p>	
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	<p>It is advised that LCC opposes the culverting of watercourses (refer to Policy 1: Culverting of Ordinary Watercourses in Appendix 3 of the Local Flood Risk Management Strategy available at: https://www.leicestershire.gov.uk/sites/default/files/2024-02/Local-Flood-Risk-Management-Strategy-for-Leicestershire.pdf). However, LCC recognises that there are situations where culverting may be necessary. In these cases, open span bridges should be considered first as alternatives to culverts. Where no technical alternative to culverting is reasonably practicable, their length should be minimised.</p>	
6.1 – 6.6	<p>In LCC’s Relevant Representations [RR-002] LCC identified concerns relating to the reliance of the ES Population and Human Health Chapter assessment [APP-180] and the Equality Statement [APP-183] on incomplete transport modelling, and set out that LCC’s agreement to remove the standalone Health Impact Assessment (HIA) appendix was conditional upon all HIA content being fully and transparently embedded within ES Chapter 17 [APP-180] with no loss of analytical rigour.</p> <p>LCC’s position remains that, at this stage of the Examination, the public health conclusions presented within the ES cannot be considered robust. This is due to (a) unresolved transport modelling which underpins several core health determinants, and (b) sufficient clarity is required regarding how HIA content has been embedded within ES Chapter 17 [APP-180], without loss of scope or analytical integrity. These issues were first raised with the Applicant in January 2026 and continue to be relevant, as they directly affect the reliability and completeness of the assessments provided.</p>	<p>The Applicants refer to their response to Leicestershire County Council’s Relevant Representations [REP1-051D] on these matters.</p> <p>All modelling work, based on both PRTM 2019 and 2023, has been concluded, and once agreed by LCC this issue can be revisited as to whether any revisions to the assessment are required.</p> <p>The Applicants confirm that they are continuing to engage with Leicestershire County Council on these matters through the SoCG.</p>

	<p>The Population and Human Health Chapter assessment [APP-180] and the Equality Statement [APP-183] rely on transport modelling assumptions that are not complete or agreed. LCC therefore maintains that conclusions in both documents cannot be treated as reliable until final, agreed modelling is available.</p> <p>The determinants assessed in the Population and Human Health Chapter include severance and access, active travel, road safety and community safety, and traffic-related air quality and noise. All are directly influenced by traffic volumes, routing, and infrastructure design. In the absence of agreed transport modelling, the conclusions cannot be regarded as fully accurate or truly representative of likely impacts.</p> <p>The Applicant has committed to LCC that a proportionate update to the Population and Human Health Chapter assessment [APP-180] and the Equality Statement [APP-183] will be undertaken once the final transport modelling is completed and agreed. This includes commitments to provide LCC with the final modelling, re-check transport linked health pathways, update cumulative assessments where required, and revisit equality conclusions.</p> <p>LCC welcomes this commitment but reserves its position until this information is formally submitted to the Examination for consideration.</p>	
6.7 – 6.8	Given the central role of transport modelling in determining changes to safety, access, connectivity, air quality and noise, LCC considers it entirely reasonable to expect that revised modelling may alter the	See above response to paragraph 6.1-6.6.

	<p>conclusions of both the Population and Human Health Chapter assessment [APP-180] and the Equality Statement [APP-183]. The Applicant has acknowledged that increases in impacts would require updates, and that even in the event of impacts decreasing, further consideration may still be needed to determine whether conclusions should be narrowed or adjusted. Any change to the transport modelling therefore has potential to alter both the assessed significance and the differential impacts experienced by vulnerable groups.</p> <p>As set out in LCC's Relevant Representations [RR-002] LCC agreed to the removal of the standalone HIA only on the condition that all HIA material was fully and transparently integrated into the Population and Human Health Chapter assessment [APP-180] with no loss of analytical content. LCC identified gaps in the completeness of this embedding, including the treatment of several Joint Strategic Needs Assessment (JSNA) identified vulnerable groups, many of whom were assessed only through the Equality Statement [APP-183] rather than within the Population and Human Health Chapter assessment [APP-180]. LCC require clear justification for such exclusions, aligned to local evidence and JSNA priorities.</p>	
6.9 – 6.10	<p>The Applicant provided a Technical Note to LCC in March 2026 that has not yet been submitted to the Examination by the Applicant. This Technical Note provides clarification relating to transport-linked pathways and air-quality-related health effects. Notwithstanding this, LCC considers that further clarification and explicit signposting within ES Chapter 17 [APP-180] is still required to demonstrate transparently where the embedded HIA components are</p>	<p>The Applicants refer to their response to Leicestershire County Council's Relevant Representations [REP1-051D] on these matters.</p> <p>The Applicants confirm that they are continuing to engage with Leicestershire County Council on these matters through the SoCG.</p>

	<p>located. This includes:</p> <ul style="list-style-type: none"> • determinants and pathways; • baseline vulnerability and existing health burdens; • assessment of health effects; • proposed mitigation; and • the relationship between the Population and Human Health Chapter assessment and Appendix 17C (Equality Statement) [APP-183]. <p>Such signposting is necessary to confirm that the removal of the standalone HIA has not resulted in a loss or dilution of assessment content and to ensure that the Examination can easily identify where each HIA component is addressed. Any updates arising from final transport modelling may also affect the embedded HIA components, requiring additional revisions. Given the likelihood that updates to the Population and Human Health Chapter assessment [APP-180] will be needed once the final transport modelling is issued, LCC considers it important that the Applicant sets out a clear mechanism and timeline for updating the embedded HIA components. This is essential to support a transparent and effective Examination.</p>	
7.1	<p>LCC previously requested clarification on the breeding status of Skylark, which was provided in the form of a Bird Report [APP-111]. The report included information on previous bird surveys undertaken at the site, and the results of the breeding and wintering bird surveys between 2024-2025. Skylark were confirmed as breeding and a 'common resident', along with other Priority Species. The ES Chapter outlines the provision of grassland to provide alternative habitat and to support the carrying capacity of surrounding habitats, however suitable breeding habitat provision has not been</p>	<p>The Applicants refer to their response to ExQ5.0.3 [REP1-054] and their response to Leicestershire County Council's Relevant Representations [REP1-051D].</p>

	provided.	
7.2	The Applicant has provided additional information/detail relating to the BNG assessment to LCC. LCC are currently reviewing this additional information for both the DCO and MCO and encourage the Applicant to submit this information into the Examination.	The Applicants can confirm that an updated Biodiversity Net Gain Report will be submitted at Deadline 3.
7.3	LCC requested an outline lighting plan to determine how lighting may impact protected species. The Obtrusive Light Calculation [APP-131] includes a lux contour plan, however only 1.0 and 0.2 lux contours are shown on the plan. LCC awaits a response from the Applicant regarding the request for a sensitive lighting scheme. In addition, LCC has suggested that there is a requirement for the Applicant to provide bat boxes, again a response is awaited.	The need for a sensitive lighting scheme and provision of bat boxes has been agreed in principle. The detailed design of the sensitive lighting scheme and locations of the bat boxes will be provided at the detailed design stage pursuant to Requirements 10 and 14 of the dDCO.
7.4	LCC has reviewed the Landscape and Ecological Management Plan (LEMP) [APP-117] which includes a Veteran Tree Strategy as an appendix. It is noted that six of the identified veteran trees are to be retained, including the tree defined as veteran under the National Planning Policy Framework (2024). The Veteran Tree Strategy does not seem to fully consider the Natural England and Forestry Commission guidance on Ancient Woodland, Ancient and Veteran Trees available at: https://naturalengland.blog.gov.uk/2022/01/24/updates-to-planning-guidance-to-help-safeguard-englands-protected-species-and-ancient-woodland-ancient-and-veteran-trees/ .	The Applicants note that agreement has been reached with the Forestry Commission that the Applicant's approach to the assessment, retention, mitigation, and management of trees and woodland, including veteran trees, is realistic, proportionate, and ecologically appropriate given the site constraints and species condition. This is set out in the agreed SoCG between the Applicants and the Forestry Commission submitted at Deadline 1 [REP1-080]. An updated LEMP will be submitted at Deadline 3.
8.1	The Applicant, in liaison with LCC, has undertaken a thorough and robust assessment of the archaeological issues in respect of both designated and non-designated	The Applicants note the response and will continue to engage with Leicestershire County Council to agree an SoCG on archaeology matters.

	<p>heritage assets and their related significance for the EMG2 project. LCC consider that a satisfactory programme of on-site archaeological mitigation could be achieved as set out in ES Chapter 12 [APP-133] and is content with the wording of requirement 13 in the dDCO [PDA-005D] requiring submission of, and agreement to, a written scheme of mitigation measures and associated programme.</p>	
8.2 – 8.3	<p>The Applicant has undertaken a through archaeological evaluation of the proposed EMG2 project development area. This has comprised a desk-based assessment [APP-135], geoarchaeological assessment [APP-137], geophysical surveys [APP-136], fieldwalking [APP-138] and trial trenching investigation [APP-139].</p> <p>LCC consider that all appropriate methods have been applied. Any constraint to the pre-determination investigation of the application site has been due solely to its viability and practicality at this stage. In this instance, associated with the proposed highways works, appropriate provision has been agreed with the Applicant to form part of the post-determination Archaeological Mitigation Strategy. The Applicant has submitted this Strategy in draft form for LCC review and comment. However, LCC notes that this is yet to be submit this to the Examination.</p>	<p>The Applicants note the response and will continue to engage with Leicestershire County Council to agree an SoCG on archaeology matters.</p>
8.4	<p>LCC has reviewed the Applicant's submitted archaeological assessment [APP-135] and considered the impact of development upon the affected remains. It is concluded that the proposed assessment has adequately addressed the impact of the scheme upon the affected archaeological resource and provided a thorough understanding of the affected remains. It is</p>	<p>The Applicants note the response and will continue to engage with Leicestershire County Council to agree an SoCG on archaeology matters.</p>

	concluded that the impact of development upon the archaeological resource can be adequately addressed through the provision of a suitable programme of targeted archaeological mitigation, secured by requirement 13.	
8.5	In liaison with LCC the Applicant has prepared a full and through programme of archaeological mitigation as detailed in the draft Archaeological Mitigation Strategy. However, as set out above, LCC notes that the Applicant is yet to submit this information into the Examination.	The Applicants note the response and will continue to engage with Leicestershire County Council to agree an SoCG on archaeology matters.
Responses to ExQ1		
ExQ	Interested Party's Response	Applicants' Response
1.2.8 20% advanced manufacturing floorspace Paragraph 3.2.7 of chapter 3 of the ES [AS-025] states that the development would primarily comprise logistics buildings with up to 20% of the floorspace capable of being used for 'advanced manufacturing'. Please can the applicants clarify how this 20% limitation is secured in the dDCO and explain the environmental effects in the event this 20% limitation is exceeded. For example, why is the limitation important, does advanced manufacturing generate different environmental effects in relation	LCC invite the Applicant to confirm that the trip rates applied, which are based on those adopted for EMG1, allow for 20% advanced manufacturing floorspace.	Separate B2 trip rates were derived from the TRICS database for the 20% advanced manufacturing (industrial) floorspace, agreed with the TWG, and hence separate to the EMG1 trip rates used for the B8 element. This is because EMG1 only contains B8 floorspace.

<p>to traffic, noise and disturbance compared to storage and distribution?</p>		
<p>2.0.8 Parking space size</p> <p>Paragraph 6.31 of the TA [APP-080] sets out parking sizes. The ExP is aware that many local planning authorities are seeking larger spaces (generally to the width) to accommodate the larger cars that are being produced compared to those when the standards were originally drawn up. Does the applicant, NWLDC or LCC have any comment as to whether larger spaces should be included within the parking areas?</p>	<p>LCC would seek parking space dimensions in line with the Leicestershire Highway Design Guide (LHDG) available at:</p> <p>https://www.leicestershirehighwaydesignguide.uk/highway-layouts-and-design/parking-and-making-provision-service-vehicles/design-principles-street-parking#offstreetlayouts.</p> <p>LCC requires car parking spaces to be a minimum of 2.4m by 5.5m, add 0.5m if bounded by a wall, fence, hedge, line of trees or similar obstruction on one side. 1m if bounded on both sides. LCC do not require an increase in the width of spaces under consideration beyond the above requirements. Larger spaces would be acceptable if there was no impact on the quantum of spaces proposed.</p>	<p>The Applicants refer to their response to this ExQ [REP1-054].</p>
<p>4.0.3</p> <p>Reasonable worst case scenario complexity</p> <p>Paragraph 8.2.58 of chapter 8 of the ES [AS-037] establishes four scenarios considered as part of the traffic modelling that underpins the air quality assessment. These modelling scenarios were broken down into sub scenarios in paragraph 8.2.55. What is the rationale for conducting such a multitude of scenarios? Does it present an overly</p>	<p>The additional scenarios and model flows for air quality assessments were not requested by LCC or stakeholders of the Transport Working Group. This was an Applicant led approach based on the Applicant's interpretation of Environmental Impact Assessment requirements.</p>	<p>The Applicants note the response.</p>

<p>complex approach, and could it be streamlined by adopting one definitive reasonable worst case scenario for each of the following:</p> <ol style="list-style-type: none"> 1) Baseline traffic 2) EMG2 project traffic (with DCO and MCO assessed discretely) 3) EMG2 project traffic (with DCO and MCO assessed discretely) + mitigation 4) EMG2 project traffic (with DCO and MCO assessed discretely) + mitigation + cumulative project traffic 		
<p>4.0.11</p> <p>PRTM updates</p> <p>The ExP acknowledges that the air quality modelling and assessment are reliant on the PRTM and that as per the applicants' submission [PDA-001], the PRTM assessment is currently in the process of being updated to the 2023 version. Whilst it would be helpful for the applicants and other IPs to answer questions relating to air quality modelling and assessment at this juncture (ExQ1), if more informative answers can only be given after the PRTM assessment has been updated, or answers would otherwise quickly become out of date, then please highlight this to the ExP accordingly.</p>	<p>LCC is primarily interested in the PRTM2023 modelling for the entire quantum of development proposed and awaits the Applicant's detailed submissions.</p>	<p>All modelling work, based on both PRTM 2019 and 2023, has been concluded, and no changes were made which should prejudice this workstream.</p>

<p>8.0.1</p> <p>Updated DCO at Procedural Deadline A</p> <p>At Procedural Deadline A, the applicant updated the dDCO [PDA-004D] with an explanation for those changes in the Schedule of Changes document [PDA-008]. All IPs are asked to review these changes and the justifications for them and submit any comments that they may have into the examination.</p>	<p>LCC comments on the dDCO have been submitted under separate cover. LCC notes that changes it has requested have not to date been taken on board.</p>	<p>The Applicants have received LCC's comments on the dDCO and are considering the same. Some of the points will be addressed in the dDCO [PDA-004D] submitted at Deadline 2.</p>
<p>8.0.2</p> <p>Deemed approvals</p> <p>All bodies which would approve approvals are asked to review the time periods set out and to comment as to whether they consider these periods appropriate. If a different period were to be sought, then the body should justify this revised period. Individual periods should be set out by provision.</p> <p>The ExP understands that the provisions are:</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>However, this should not be considered comprehensive, and parties are</p>	<p>LCC understand the need for deemed approvals and have no justification to challenge the time periods as set out in the dDCO.</p>	<p>The Applicants note the response.</p>

requested to consider the whole dDCO.		
<p>8.1.2</p> <p>Article 13 – 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. However, in its Schedule of Changes to the Draft DCO submitted at Procedural Deadline A [PDA-008D] the applicants indicate that temporary access will be required to facilitate highway works on the SRN.</p> <p>Could NH please further comment on this matter and whether there should be a specific restriction included within the requirement.</p> <p>Could LCC confirm that it is content with this provision for the local road network.</p>	<p>LCC understands that the Applicant is considering whether temporary construction access will be required to the LRN. LCC reserves the right to respond to this matter in detail once this information has been received.</p>	<p>Temporary construction accesses from the LRN would be confirmed at the pre-construction stage and covered by the relevant phase specific pCEMP which would be approved by the relevant authority.</p>
<p>8.1.3</p> <p>Article 19 – Discharge of water</p> <p>Could the EA, LCC as local lead flood authority and STW comment as to whether article 19 should prevent the discharging of surface water into any foul or combined drain or sewer?</p>	<p>LCC is not aware of any proposed surface water discharge to combined systems. The Applicant should confirm this position.</p>	<p>See Applicants' response to this question [REP1-054].</p>

<p>8.1.4</p> <p>Article 38 – Felling or lopping of trees and removal of hedgerows</p> <p>Could the identified parties please comment on the distance from the Order limits of 25 metres 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 will need to be fully justified both in response to this question and in the EM.</p> <p>Could NWLDC confirm whether presently there are any trees protected by tree preservation orders within 25m of the Order limits? Should this situation change, could NWLDC ensure this information is submitted into the examination.</p> <p>Is any party 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 party holds that view.</p>	<p>LCC consider a 25m distance from the Order limits to allow works to trees and hedgerows to be excessive and unnecessary and the Applicant should reconsider this position. In addition, the Applicant should clearly document trees and hedgerows with the extents of the public highway for which LCC is responsible which could be impacted by this buffer. LCC reserves the right to respond to this matter in detail once this information has been received.</p>	<p>The Applicants have reconsidered the 25m distance which can be reduced to 15m.</p> <p>In terms of undertaking any works within the public highway, the Applicants confirm that the power is restricted by the need for approval from the relevant highway authority (Article 38(5) of dDCO [PDA-004D]).</p>
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<p>8.3.1</p> <p>Consultee in requirements</p> <p>In various requirements there is a requirement for consultation with a statutory body prior to the decision maker deciding whether to approve details pursuant to requirements. Could all statutory parties review the requirements and confirm whether consider that the current arrangements are appropriate. Should they wish to amend this, could they please set out where such a change should be made, and if requesting additional consultation explain why it is considered necessary.</p>	<p>LCC in its statutory capacity as Local Highway Authority would expect to be named as a consultee in all requirements relating to highways and transport. The Applicant should revisit the wording of requirements on this basis.</p>	<p>The Applicants have received LCC's comments on the dDCO and are considering the same.</p>
<p>8.3.3.</p> <p>Requirement 4</p> <p>Could the applicants explain why the sustainable transport working group should only continue its duties for five years rather than in perpetuity, given the traffic generation figures for the life-time of the development are based on an effective travel plan? Furthermore, what arrangements should there be in place for a second and subsequent occupier of the buildings to ensure sustainable transport arrangements are continued? NWLDC,</p>	<p>The EMG2 Sustainable Transport Working Group (STWG) is proposed for 10 years from 2029, following the termination of the EMG1 STWG in 2028. The Framework Travel Plan (FTP) also references a 10-year period and sets out a high level of funding for the STWG and public transport improvements. LCC considers the time period to be reasonable and acceptable. LCC does, however, suggest that the FTP should be amended to require commitment from all subsequent occupiers of units within the 10-year period, and not just the first occupier.</p> <p>LCC requires the Applicant to demonstrate an acceptable and appropriate legal mechanism and associated financial contribution to monitor and implement the ambitions of the Sustainable</p>	<p>See Applicants' response to this point in their response to the Local Impact Reports (Document DCO 7.11 / MCO 7.11).</p>

<p>NH and LCC are all asked for their views on this.</p>	<p>Transport Strategy. LCC suggests that this would be most appropriately dealt with in a s106 Agreement.</p>	
<p>8.3.4</p> <p>Requirement 17</p> <p>Could the EA, LCC as local lead flood authority, and any person who is an approving body under schedule 3 of the Flood and Water Management Act confirm whether they are satisfied with the climate change allowance within this requirement. If not, could they set out what allowance each would seek and justify the quantum.</p>	<p>LCC understands that Schedule 3 of the Flood and Water Management Act has not been enacted in England.</p> <p>The proposed climate change allowances are in line with Environment Agency guidance:</p> <p>https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances</p>	<p>The Applicants note the response.</p>
<p>8.4.2</p> <p>All parts</p> <p>All those who would benefit from the protective provision in the dDCO are requested to fully review them. Should the protective provisions not be agreed, then the party is to provide their own set of protective provisions both in 'clean' and 'tracked change' from that submitted by the applicant. Furthermore, the party needs to explain on a provision-by-provision basis why the drafting provided by the applicants is unacceptable and why its drafting is to be preferred.</p>	<p>LCC has raised the following concerns with the Applicant in respect of Protective Provisions:</p> <ul style="list-style-type: none"> • Drafting is overly complex and will be difficult to manage/implement • Drafting does not replicate LCC standard s278 provisions • Drafting does not reflect LCC bond requirements as set out at: https://www.leicestershirehighwaydesignguide.uk/fees-and-charges • LCC fees shall be set at 10% as is the LCC standard approach (and the standard approach of numerous Highway Authorities across the Country). LCC does not have the back-office systems or support to calculate and re-charge fees on a cost basis. • No reference is made to the adopted LCC Highway Design Guide available at: h 	<p>The Applicants are considering the proposed amendments to the protective provisions proposed by LCC and will respond to the same with a view to agreeing appropriate changes before updating the dDCO.</p>

	<p>ps://resources.leicestershire.gov.uk/environment-and-planning/planning/leicestershire-highway-design-guide</p> <ul style="list-style-type: none"> • Definition of “as built drawings” is missing reference to: <ul style="list-style-type: none"> o Test results & records o Landscape drawings o Highway drainage drawings • Commuted sums should be payable prior to the issue of a Final Certificate <p>LCC comments on the dDCO have been submitted under separate cover. This includes track change comments on the dDCO.</p>	
<p>8.5.1</p> <p>Miscellaneous Controls</p> <p>In the EM submitted as an additional submission [AS-015D] in response to the s51 advice issued at acceptance, the applicants have set out the reasoning for various disapplications of legislation. Would those who would otherwise be responsible for the issuing of appropriate approvals under the would be disappled provisions comment as to whether they are content? If not, could they explain why they hold that view. If an ‘alternative’ position, for example one which may apply in Schedule 14 – Paragraph 2 LCC does not agree with the disapplication of Sec on 141 of the Highways Act 1980. LCC may require this power to implement works for the dualling of the A453.</p>	<p>Schedule 14 – Paragraph 2 LCC does not agree with the disapplication of Sec on 141 of the Highways Act 1980. LCC may require this power to implement works for the dualling of the A453.</p> <p>Schedule 14 – Paragraph 3 LCC does not agree with the disapplication of Sec on 56(1) and 1(A) of the New Roads and Street Works Act 1991 to remove requirements for road space booking approvals.</p> <p>Schedule 14 – Paragraph 3 LCC does not agree with the disapplication of Sec on 58(1) of the New Roads and Street Works Act 1991 to restrict works in 12 months following substantial completion of works. This could fetter delivery of works brought forward by LCC or third parties (including statutory undertakers) including works necessary for the safe operation of the public highway. This is also the case for Sec on 73A(1)</p>	<p>The Applicants confirm that the wording in Schedule 14 mirrors the wording in other made DCOs. The DCO process is intended to enable all necessary consents to be incorporated into the DCO without the need for separate and further approvals.</p>

<p>Schedule 14 – Paragraph 3 LCC does not agree with the disapplication of Sec on 56(1) and 1(A) of the New Roads and Street Works Act 1991 to remove requirements for road space booking approvals. certain areas but not others were to be acceptable, the party is asked to set that out, explaining their position.</p>	<p>Schedule 14 – Paragraph 3 LCC does not agree with the disapplication of sec on 74 and 74A of the New Roads and Street Works Act 1991. Charges will be made to cover the cost of road space booking process and procedures.</p>	
<p>9.0.1</p> <p>Updated MCO at Procedural Deadline A</p> <p>At Procedural Deadline A, the applicant updated the dMCO [PDA-006M] with an explanation for those changes in the Schedule of Changes document [PDA-008]. All IPs are asked to review these changes and the justifications for them and submit any comments that they may have into the examination.</p>	<p>LCC comments on the dMCO have been submitted under separate cover. LCC maintains that all proposed works at the existing EMG1 access should be captured in the MCO and not split between the MCO and the DCO. LCC awaits a response from the Applicant on this matter.</p>	<p>The Applicants do not understand why LCC hold this view unless it is simply due to proximity to EMG1 especially given that NH, who are the highway authority for this junction, do not hold this view.</p> <p>The capacity improvement works (DCO Works No. 13) are required as mitigation for EMG2 traffic and are not required for the EMG1 in isolation. This has been confirmed by the further modelling work presented at Document MCO 7.10 [REP1-283M] submitted at Deadline 1. The Applicants await feedback from LCC on this.</p>
<p>9.0.3</p> <p>Article 2(26)</p> <p>Could the applicants explain why any occupier should only comply with the travel plan for five years rather than in perpetuity, given the traffic genera on figures are based on an effective travel plan for the lifetime of the development? Furthermore, what arrangements should</p>	<p>LCC requires a 10-year compliance period for occupier travel plans to reflect the FTP. As per LCC comments on Q8.3.3, the FTP should be amended to require commitment from all subsequent occupiers of units within the 10-year period, and not just the first occupier.</p>	<p>See the response to ExQ 8.3.3 above.</p>

<p>there be in place for a second and subsequent occupier of the buildings to ensure sustainable transport arrangements are continued? NWLDC, NH and LCC are all asked for their views on this.</p>		
<p>11.0.7</p> <p>Effects on setting Diseworth Conservation Area</p> <p>In its RR [RR-002] LCC indicates that it considers the ES “underestimates the construction and operational impact of the proposed development upon the setting and character of the Diseworth conservation area”.</p> <p>Could LCC please explain why it holds the view set out in [RR-002], identifying the aspects of the applicants’ approach and/ or conclusions with which it disagrees (including in respect of construction and operational effects). Any differences between the approach followed by the applicants and LCC should be fully explained.</p>	<p>LCC consider that the Applicant’s assessment methodology outlined in the Environmental Statement (Section 12.2) [APP-133] is appropriate and in accordance with best practice.</p> <p>LCC has however raised concern that the assessment underestimated the construction and operational impact of the proposed development, specifically the EMG2 Main Site, upon the setting and character of the Diseworth conservation area. No significant impact is indicated in respect of the EMG1 Works or the proposed Highways Works.</p> <p>The assessment is presented in EMG2 - Environment Statement Chapter 12: Cultural Heritage, and Appendices as follows:</p> <ul style="list-style-type: none"> • A Built Heritage Assessment [APP-134] • Heritage Receptors for the EMG2 Project [APP-140] <p>LCC is satisfied that the Applicant’s assessment methodology is appropriate, and the above documents are acknowledged to be satisfactory with respect to their identification heritage receptors, specifically the identification of the Diseworth Conservation Area, and particularly the contribution offered by its historic agricultural landscape setting.</p>	<p>See the Applicants' response to the Local Impact Report submitted by NWLDC (Document DCO 7.11 / MCO 7.11).</p>

	<p>It is acknowledged that the ridge and furrow earthworks noted in the Diseworth Conservation Area Appraisal and Study in ‘...the field areas immediately to the north of Hyam’s Lane’ have been impacted by recent agricultural land use, prior to the current development. Notably the removal of well-preserved earthworks of likely medieval date in the north west corner of the application site [APP-134].</p> <p>Ridge and furrow earthworks survive however, north of Hyam’s Lane and east of Grimes Gate adjacent to the development area. The earthworks are of uncertain date but exhibit characteristics of their medieval origin. To the south of Hyam’s Lane, adjacent to the conservation area, further ridge and furrow earthworks are present, although probably of post-medieval form (more regular and straighter in alignment). Also of relevance is the location of an earthwork mound, adjacent to the western edge of the development area, the latter is listed on the Leicestershire Historic Environment Record available at: https://www.leicestershire.gov.uk/leisure-and-community/history-and-heritage/historic-environment-record as a probable windmill mound (HER ref.: MLE4744). Neither of the latter sites are directly referenced in the Conservation Area Assessment, but both contribute as non-designated heritage assets to its significance.</p>	
<p>11.0.12</p> <p>Archaeological evaluation</p> <p>Appendix 12F [APP-139] states that the</p>	<p>LCC can confirm that full dialogue and agreement was achieved between the Applicant’s archaeological advisor and LCC over the completion of the archaeological trial trenching programme.</p>	<p>The Applicants note the response and will continue to engage with Leicestershire County Council to agree an SoCG on archaeology matters.</p>

<p>evaluation was originally designed to comprise 391 trial trenches but, following agreed changes, 388 trial trenches were excavated, with decisions regarding trenches made with the approval of LCC. Further paragraph 1.2.2 states that the results facilitate an informed decision regarding the requirement for, and methods of, any further archaeological mitigation.</p> <p>ES chapter 12 table 12.6 [AS-051] records LCC's scoping position that the assessment should consider the results of the previous archaeological evaluation at EMG1 and the EMG2 main site and that the need for any further archaeological evaluation should be identified.</p> <p>Could the applicants please explain/confirm:</p> <ul style="list-style-type: none"> • whether the applicants consider the archaeological evidence base in the ES chapter 12 appendices is sufficient at this stage to define the mitigation approach • whether any further pre-determination evaluation is required for any part of the authorised development (including Highway Works), and if not, why not <p>If LCC considers further evaluation is required, please identify where and why.</p>	<p>Additionally, LCC have advised that the trial trenching programme has been sufficient and adequately undertaken. No additional pre-determination trial trenching has been requested on any aspect of the scheme including the Highway Works, the later due to the impracticality of targeting the affected areas in advance of the determination of the DCO.</p> <p>Further archaeological investigation (to be secured by Requirement) will target investigation of the archaeological impact of the planned Highways Works. Details of this further investigation must be detailed in the Archaeological Mitigation Strategy.</p>	
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<p>14.0.1</p> <p>Waste Data Interrogator</p> <p>ES chapter 18 paragraph 18.2.52 [AS-067] states within Limitations and Assumptions that the assessment is based on “the most recent publicly available information which is up to and including 2023” and cites the 2023 Waste Data Interrogator in the references.</p> <p>In its RR LCC [RR-002] requests that the ES chapter be updated to use the latest Waste Data Interrogator (noting that 2024 data is available).</p> <p>Could the applicants and LCC:</p> <ul style="list-style-type: none"> • please confirm whether more recent Waste Data Interrogator data (2024 or post-2023) is available and, if so, whether it has been considered • explain whether use of post-2023 data would materially change the waste capacity/ void capacity baseline, the significance conclusions and/ or the mitigation set out in ES chapter 18 • if an update is required, provide an updated schedule/ table identifying which paragraphs/tables would change and 	<p>LCC continue to work with the Applicant team to ensure a mutual understanding of the data. LCC can confirm that the Environment Agency’s 2024 Waste Data Interrogator (WDI) was published on 23rd September 2025 and was therefore available to the Applicant prior to the submission of the DCO application.</p> <p>LCC have consistently that the Applicant should use the most up to date data available. It is for the applicant to demonstrate to the ExP and LCC whether there would be a material impact and what this would be.</p> <p>LCC understands that the Applicant has undertaken an exercise to review the data, but it remains unclear as to whether the Applicant intends to submit this information into the examination.</p>	<p>The Applicants refer to their response to this ExQ [REP1-054] and their response to Leicestershire County Council’s Relevant Representations [REP1-051D].</p> <p>In response to the matters raised by Leicestershire County Council, an updated Chapter 18 was submitted at Deadline 1 [REP-029].</p>
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<p>confirm whether any updated assessment would alter the conclusions in sections 18.5 to 18.9</p>		
<p>14.0.3</p> <p>Site Waste and Materials Management Plan (SWMMP)</p> <p>ES chapter 18 paragraph 18.5.84 [AS-067] states that the principal mitigation measure is implementation of the CEMP and phase-specific P-CEMPs submitted pursuant to dDCO requirement 11, and further in paragraph 18.5.85 states that, although not required by regulations, a Site Waste and Materials Management Plan (SWMMP) will be regularly updated during the lifetime of the DCO Scheme and is provided as appendix 18E [APP-190].</p> <p>The CEMP paragraph 10.1 [AS-027D] states that each P-CEMP shall set out details of construction waste management in accordance with the SWMMP. Appendix 18E [APP-190] refers to the SWMMP “submitted with the DCO application” being “approved” and then reviewed/ updated (including refinement “in consultation with the local planning authority”) and also contains reliance/ disclaimer wording limiting third-party reliance.</p>	<p>As detailed in LCC Relevant Representations [RR-002], LCC remain concerned that there appears to be no commitment within the dDCO [PDA-005D] that a Site Waste Management Plan (SWMP) will be prepared prior to commencement of construction, in line with relevant legislation and best practice (e.g. CL:AIRE Code of Practice).</p>	<p>The wording of Requirement 11 has been revised and an updated draft DCO [PDA-004D] has been submitted at Deadline 2.</p> <p>The Applicant confirm that they are continuing to engage with Leicestershire County Council on these matters.</p>

<p>The Commitment Register [APP-226D] links the SWMMP to a waste management commitment (MW1) secured via dDCO requirement 24.</p> <p>Could the applicants, LCC and the EA:</p> <ul style="list-style-type: none"> • confirm whether the SWMMP (appendix 18E) is relied upon to secure the mitigation identified in ES chapter 18 and, if so, at what stage it is intended to be “approved” and by whom • explain how updates to the SWMMP will be controlled and enforced through the DCO (including the relationship between the CEMP/ P-CEMPs, requirement 24, and any operational waste management arrangements) • confirm whether any amendment is required to the dDCO and/ or the CEMP/ SWMMP wording to ensure the SWMMP is clearly secured, enforceable and capable of being relied upon for the purposes of the Examination • confirm whether, and if so how, the EA and relevant waste planning authorities will be engaged during discharge/ implementation where the SWMMP relies on regulatory compliance processes (including Duty of Care and any permitting/ exemption 		
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requirements)		
<p>17.0.6</p> <p>Reliance on transport modelling</p> <p>ES chapter 17 table 17.3 [AS-065] states LCC's concern that the Population and Human Health assessment and Equality Statement rely on transport modelling that was not complete/ agreed at the time of consultation, and the applicants response states that the assessment has been reviewed using the latest modelling assumptions.</p> <p>Could the applicants please explain:</p> <ul style="list-style-type: none"> • what transport evidence base has been relied upon to inform the Population and Human Health assessment conclusions in ES chapter 17, including whether the assessment relies on modelling outputs for severance/ access, active travel, road safety or community safety pathways • whether any subsequent changes to transport modelling assumptions or outputs during Examination would require a re-check of ES chapter 17 conclusions (including equality appraisal conclusions), and if so, what process the applicants propose for that re-check and reporting and 	<p>LCC maintains that conclusions within both the Population and Human Health Chapter assessment and the Equality Statement cannot be fully considered until final transport modelling is completed and agreed.</p> <p>The Applicant has now agreed in principle that any changes to the transport modelling would require a proportionate update to the Population and Human Health Chapter assessment and the Equality Statement as per LCC request</p>	<p>All modelling work, based on both PRTM 2019 and 2023, has been concluded, and no changes were made which should prejudice this workstream</p>

<p>whether the applicants consider that any such re-check could result in materially different health conclusions, and if not, explain why not LCC is also invited to comment on this matter.</p>		
<p>17.0.7</p> <p>Health Impact Assessment (HIA)</p> <p>ES chapter 17 table 17.3 [AS-065] records that, following engagement with LCC, HIA principles are fully embedded within ES chapter 17 and the standalone HIA appendix is no longer required.</p> <p>Could the applicants please explain:</p> <ul style="list-style-type: none"> • where, within ES chapter 17, the key HIA components are now presented (including determinants/ pathways, baseline vulnerability, assessment of effects, and mitigation), and how appendix 17C [APP-183] is relied upon for equality considerations • whether removal of the standalone HIA appendix resulted in any changes to the scope or content of the assessment compared to the position discussed with LCC, and if so, what those changes are, and • whether any additional signposting or clarification is required in ES chapter 17 	<p>LCC's position remains that removal of the standalone HIA appendix was accepted only on the basis that all HIA content would be fully and transparently integrated into the Population and Human Health Chapter assessment, with no loss of analysis.</p> <p>The Applicant has submitted a technical note directly to LCC, which is welcomed as it provides some useful clarification on transport-modelling updates and the air-quality assessment approach; however, it is not clear whether this document has been, or will be, submitted into the Examination. LCC will therefore reserve its position until this information is formally submitted for consideration by the ExP and other Interested Parties.</p> <p>Notwithstanding this, further clarification and explicit signposting within ES Chapter 17 [AS-065] is still required to ensure that the embedded HIA approach is transparent for Examination and to confirm whether any updates arising from the final transport modelling would affect conclusions within the Population and Human Health Chapter assessment or the Equality Statement.</p>	<p>The Applicants refer to their response to this ExQ [REP1-054] and their response to Leicestershire County Council's Relevant Representations [REP1-051D]. The Technical Note referred to was also included by way of an appendix to the draft SoCG.</p> <p>The Applicants confirm that they are continuing to engage with Leicestershire County Council on these matters through the SoCG.</p>

<p>to ensure the embedded HIA approach is transparent for examination, confirming whether any update would affect the reported conclusions</p> <p>LCC is also invited to comment on this matter.</p>		
<p>17.0.8</p> <p>Study area and baseline health data</p> <p>ES chapter 17 explains at paragraph 17.2.3 [AS-065] that baseline health data relevant to environmental health determinants is focussed on administrative wards within 500m of the EMG2 Project, and at paragraph 17.2.4 that ward-level trend data is not readily available and therefore baseline data presented primarily relates to NWLDC, which is considered representative of the wards; it further states that data at the lowest geographic level possible is used for quantitative assessment. ES chapter 17 paragraph 17.2.23 repeats this as a limitation/ uncertainty.</p> <p>Appendix 17B [APP-182] presents the population and health baseline, explaining that the district study area comprises North West Leicestershire district and that the ward study area is used where possible.</p>	<p>LCC do not hold data at this level. However, data is available at a Middle Super Output Area (MSOA) level that would demonstrate variation across North West Leicestershire District. This data is publicly accessible at https://fingertips.phe.org.uk/profile/local-health and would provide a local demonstration of the population health of the area of the study.</p>	<p>The Applicants note the response and does not consider further assessment is necessary.</p>

<p>Could the applicant please how:</p> <ul style="list-style-type: none"> • they have satisfied themselves that the district-level baseline health outcome data referenced at paragraph 17.2.4 is sufficiently representative for the populations most likely to experience effects within the ward study area defined at paragraph 17.2.3, • how the assessment has addressed the possibility that health inequalities or pockets of vulnerability within/ adjacent to the 500m ward study area could be masked by use of broader-area baseline indicators, noting the approach described at paragraphs 17.2.4 and 17.2.23, and • where, in ES chapter 17 and/ or appendix 17B, explicitly linked the baseline geography used for health outcomes (district level) to the localized determinants assessment (ward/ receptor outputs), so that the reasoning chain from paragraphs 17.2.3–17.2.4 into the effect conclusions is clear. <p>LCC is also invited to comment on this matter.</p>		
19.0.5	LCC awaits confirmation on from the Applicant of what existing signage on the Local Road Network (LRN) is proposed to be amended, and what additional signing is to be provided to encourage use	As set out in their response to this question [REP1-054] the Applicants consider that no

<p>Signage in Castle Donington area</p> <p>In paragraph 8.37 of the TA [APP-080], in discussing traffic around Castle Donington, it is noted that LCC might seek additional signage to route traffic around the bypass rather than along High Street.</p> <p>Could LCC confirm whether it would seek such signage?</p> <p>If so, could the applicants please indicate how such signage would be secured?</p>	<p>of the Castle Donington Relief Road.</p>	<p>such existing signage is required to be amended.</p>
<p>19.0.6</p> <p>Dualling of A453 west of Finger Farm Roundabout</p> <p>At ISH1 there was discussion about the potential dualling of the A453 west of Finger Farm roundabout. Could LCC please set out:</p> <ul style="list-style-type: none"> • what, if any, proposals have been drawn up for this section of road, providing drawings if necessary • any timetable for potential works or triggers for a requirement, and how land would be secured and funding for the works themselves provided <p>The applicants are asked:</p> <ul style="list-style-type: none"> • does the response have any implications in relation to your response 	<p>No scheme has been developed by LCC for potential dualling of the A453.</p> <p>However, the Applicant is part of a developer consortium who are progressing cumulative assessment of the impacts of growth in this area and through that work, LCC has been provided with a drawing showing a dualled section of the A453.</p> <p>Unfortunately, this drawing is not within LCC's gift to share with the ExP within the public domain, but it is within the gift of Applicant to do so.</p> <p>LCC understands that the Applicant will be including a requirement in the next revision of the dDCO to safeguard land along the EMG2 main site frontage with the A453 for future dualling. LCC reserves its position until a revised dDCO is submitted that reflects this change together with an associated plan.</p>	<p>The Applicants' traffic modelling work for EMG2 has demonstrated that dualling of the A453 is not required as mitigation for EMG2. However, the Applicants are aware that the wider developer consortium is considering dualling of the A453 between the Hunter Road and Finger Farm roundabouts as shown in pink on the figure at Appendix Two of the "Note on the Highway Works and the need for a strategic solution to support economic growth" provided by the Applicant in response to ISH1 Action Point 16 (Appendix 3 of the Applicants' response to hearing action points [REP1-053]).</p> <p>The transport consultant working on behalf of the Isley Woodhouse have advised at para 15.15 of their Transport Assessment [REP1-169] that "The ongoing testing of the East Midlands Growth Point scheme will include consideration of the requirement to upgrade</p>

<p>to ExQ1Q2.0.6? Prologis and EMIA are asked to set out their understandings of this matter, along with any matters within the joint application which would impinge on that.</p>		<p>the A453 to dual carriageway along the frontage of the EMG Phase 2 site.” To assist with this work they have produced an initial drawing but it is not known whether that drawing shows an acceptable scheme - as yet it has no particular status.</p> <p>Notwithstanding the above the Applicants consider the initial Isley Woodhouse proposal to be sufficient to inform the proposed area to be safeguarded as shown on the A453 Safeguarding Land Plan submitted at Deadline 1 [REP1-024D].</p>
<p>19.0.9</p> <p>Departures from highway standards</p> <p>The applicants have set out various departures from standards for the highways to be provided (see appendices 26 and 27 of the TA [APP-0821]). Could NH and LCC please formally consider whether there are likely to be any issues in approving details post-consent?</p> <p>The ExP notes that once in principle consent has been granted the Courts have indicated that it would not be possible to refuse consent at the detailed design stage.</p>	<p>The Applicant has amended their current design for the LRN to remove the necessity for a departure. However, LCC reserves its position on this matter pending the resolution of PRTM2023 modelling and final understanding of the impacts on the LRN, should any further design changes be required.</p>	<p>See the Applicants' response to paragraph 3.14 of LCC's written representation.</p>
<p>19.0.11</p> <p>Isley Woodhouse development</p>	<p>Isley Woodhouse is an emerging site allocation within the emerging NWLDC Local Plan. The Isley Woodhouse site promoters are also members of the</p>	<p>The Applicants note the response.</p>

<p>LCC is concerned to ensure that none of the proposed development would prejudice the delivery of any of the proposed allocations in the emerging local plan. Could the applicants please explain:</p> <ul style="list-style-type: none"> • what measures it has undertaken to ensure that this does not occur; and • provide us with evidence to support any response? <p>LCC, NH and NWLDC are all asked for comments in relation to the proposed Isley Woodhouse development.</p>	<p>Growth Point consortium alongside the Applicant. As detailed above in response to Q19.0.6 LCC wish to see land along the EMG2 main site frontage with the A453 safeguarded and dedicated as public highway to allow future delivery of a dualling scheme to address the impacts of wider growth. Without this safeguarding, there is a risk that the EMG2 development (if permitted) could fetter delivery of wider growth, including, but not limited to, the Isley Woodhouse emerging allocation.</p>	
<p>19.0.16</p> <p>Road Safety Audits</p> <p>There was discussion at ISH1 as to road safety audits. Could the applicants please ensure that any further road safety audits or iterations of those completed to date are submitted as they become available.</p>	<p>LCC will continue to engage in the Road Safety Audit (RSA) process. LCC has responded to the Stage 1 RSA and signed the Designer's Response for the proposals on the LRN. However, LCC reserves its position on this matter pending the resolution of PRTM2023 modelling and final understanding of the impacts on the LRN, should any further design changes be required.</p>	<p>See the Applicants' response to paragraph 3.14 of LCC's written representation.</p>
<p>19.0.19</p> <p>Relationship of the Pan Regional Traffic Model and the East Midlands Freight Model</p> <p>Paragraph 6.4.10 of chapter 6 of the ES [AS-032] refers to both the PRTM, and</p>	<p>EMFM refers to the LCC East Midlands Freeport Model. This model is a cordoned part of the larger PRTM2019 model. Given the availability of PRTM2023 LCC requested this to be used in the assessment of EMG2 as the most appropriate and up to date tool available to the Applicant.</p>	<p>The Applicants note the response.</p>

<p>the EMFM. While it is appreciated that the EMFM is a part of the PRTM, could LCC confirm whether it is content with the use of the EMFM, and its view as to the base date of the model to be used.</p>		
<p>19.0.20</p> <p>Work No 19</p> <p>In paragraph 6.7.1 of chapter 6 of the ES [AS-032], fifth bullet, tenth sub-bullet, reference is made up upgrading footpath L57 between Diseworth Lane and Castle Donnington. This indicates that payment was made to LCC until the Planning Obligation for EMG1, but the works have never been carried out and the ExP was</p> <ul style="list-style-type: none"> • Could LCC explain its understanding on this matter. • Could the applicants please provide us with a copy of the s106 Planning Obligation. • Could the applicants please explain why this link is justified in relation to the current application of which it forms part? 	<p>The s106 Agreement for EMG1 completed on 19th June 2015 required the Applicant then “Roxhill Limited” to contribute the sum of £181,000.00 (index linked) for the maintenance and upgrade of footpath L57. In April 2019 SEGRO EMG Ltd paid the sum of £200,252.32 to LCC. LCC designed a scheme for implementation. In September 2023 this scheme was costed at £314,000.00 for LCC to deliver i.e. LCC were met with a £140,000.00 funding gap.</p> <p>SEGRO considered carrying out the works (but had no legal powers to do so because the works were not defined in the EMG1 DCO) and considered funding the gap to facilitate LCC delivery. On the basis that the EMG1 MCO and EMG2 DCO applications were in development, SEGRO made the decision, supported by LCC, to include the works within this application for SEGRO to deliver. LCC has since returned the s106 monies to SEGRO (minus the LCC design costs) as per the terms of the s106 Agreement.</p>	<p>The Applicants note the response.</p>
<p>19.0.25</p> <p>Sustainable Transport Strategy [APP-084]</p>	<p>LCC requires the Applicant to provide one six-month bus pass to each employee at no cost to the employee. This is to encourage new employees to use bus services, to establish changes in travel</p>	<p>The Applicants' approach to providing complementary bus tickets has been based on that applied at EMG1. This includes offering a one-week complementary bus tickets to all</p>

<p>Could NWLDC, LCC and NH comment on whether they consider that the one week taster bus tickets would be sufficient to provide an incentive? If they consider a different period would be more appropriate, could they provide that timeframe, providing a justification.</p>	<p>behaviour from first occupation and promote use of sustainable travel modes other than the car.</p>	<p>eligible employees at the point they begin employment at the site, to establish sustainable commuting patterns from first occupation. This approach has been effective in supporting 16% of employees to commute by bus in 2024, surpassing the 10-year target of 10%.</p> <p>Section 7.49 of the STS [APP-084] explains why a six-month free bus pass is not offered initially. The one-week pass is intended as a taster to encourage trial of bus travel at first occupation, after which employees can choose to purchase a longer-term season ticket.</p> <p>This is consistent with the approach being applied at EMG1 which is already surpassing the bus mode share targets.</p>
<p>19.0.26</p> <p>Work No. 15</p> <ul style="list-style-type: none"> • Could the applicant's explain why the pedestrian access across the A453 would be an uncontrolled crossing rather than integrated into the existing junction as a controlled crossing? • Could LCC and NWLDC comment on the proposition that this should be so integrated. <p>Would this have any implications for the traffic modelling.</p>	<p>The Applicant has proposed a new PRoW (points 10 to 11) [APP-037D] and a short section of footway directing pedestrians to cross the A453 at the signal-controlled junction on for East Midlands Airport. However, this signal-controlled junction has no pedestrian provision. Moreover, neither a detailed design, assessment, or Road Safety Audit (RSA) appear to have been produced by the Applicant for this crossing point. The appropriateness of the crossing should be determined via an assessment based on Traffic Signs Manual Chapter 6 guidance and a comprehensive package of information submitted to the Examination. LCC reserves the right to comment further on the safety and suitability of this crossing provision.</p>	<p>See the Applicants' response to paragraphs 3.24 and 3.25 of LCC's written representation.</p>

<p>21.0.3</p> <p>Performance of EMG1 drainage systems</p> <p>A number of RRs [RR-030D and others] raised significant concern about flooding in Kegworth, particularly in relation to the construction of EMG1 and Kegworth Bypass. Please can the applicants, LCC and the EA advise whether there is any ongoing monitoring of EMG1's drainage systems and whether it can be determined that such systems are performing in line with the modelling conducted as part of the EMG1 application?</p> <p>Furthermore, the ExP are particularly interested in whether LCC or the EA have any evidence that might corroborate the concerns raised in the RRs, that there has been an increase in local flooding since EMG1 was constructed. If there has been an increase, please can LCC and the EA advise whether there is any potential that this could be objectively attributed to EMG1, including Kegworth Bypass, and whether a more precautionary approach to modelling should be required for the proposed development?</p>	<p>LCC in its capacity as LLFA is currently engaging with a range of stakeholders in relation to queries relating to the Kegworth Bypass and the associated drainage network. This includes a recent site walkover with elected members and affected residents.</p> <p>LCC in its capacities as LLFA and Local Highway Authority are seeking to undertake verification checks on the design and modelling completed prior to the construction of the scheme.</p> <p>The LLFA is unable to attribute direct blame to any specific factor due to the nature of flood events and a range of factors within catchments but will seek to recommend remedial actions are taken should evidence suggest such works are required. There is no evidence at this stage to suggest the modelling approach for EMG1 was insufficient.</p> <p>The LLFA is working closely with the Applicant in respect of the EMG2 proposals. As a part of this process, the LLFA has raised concerns relating to the existing drainage issues within the area and advised that the Applicant must ensure that the proposed development complies with relevant policies and best practice.</p>	<p>The Applicants note the response and refer to their response to this at ExQ [REP1-054].</p>
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<p>21.0.5</p> <p>Greenfield runoff rates</p> <p>Protect Diseworth [RR-025D] raised a significant number of concerns in relation to flood risk, including greenfield runoff rates. Please can the applicants clarify the greenfield runoff rate associated with existing surface water on the northern part of the EMG2 main site and community park that currently drains into Hall Brook?</p> <p>If it is lower than the greenfield runoff rate associated with existing surface water on the southern part of the EMG2 main site and community park that currently drains into Diseworth Brook, via the A42 culvert, would the proposed strategy within the Sustainable Drainage Statement [APP-149] inadvertently increase the rate of surface water entering the Long Whatton Brook catchment as a whole?</p> <p>For example, would the EMG2 works take surface water currently being discharged at a lower rate into Hall Brook, and instead discharge it at a higher rate into Diseworth Brook, via the A42 culvert? Consequently, would this increase the rate of some of the surface water entering the Long Whatton Brook catchment compared to baseline? As such, would there be an increase in flood risk</p>	<p>The proposed discharge rate is QBar (approximately the 1 in 2-year event equivalent) for up to the 1 in 100-year event, which represents approximately 40% of the existing discharge rate in this event, while also making a further allowance for climate change.</p> <p>No discharge to Hall Brook is proposed, removing some existing greenfield catchment from upstream of Diseworth. Hall Brook confluences with Diseworth Brook, so all flows to Hall Brook currently end up in Diseworth Brook.</p> <p>All proposed site surface water will bypass Diseworth Village being discharged to the downstream Diseworth Brook. The catchment area to Diseworth Brook is not increased as a result of the proposed EMG2 development.</p> <p>It is understood that flooding downstream in Long Whatton is not as a result of Diseworth Brook.</p> <p>Reduced peak discharge rates from the proposed site are also intended to mitigate flood risk downstream.</p>	<p>The Applicants note the response and refer to their response to this at ExQ [REP1-054].</p>
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elsewhere as a result of the proposed development?		
Does the EA, NH or LCC have any comments to make on this matter?		

APPENDIX 3

RESPONSE TO SUBMISSIONS MADE BY NH

Post hearing action points		
No.	Matter	Applicants' Response
CAH1 3.1.1	<p>Agenda item 2(c): "To consider the structure and content of the BoR"</p> <p>NH confirmed at CAH1 that it awaited detailed information from the Applicant in the form of shapefiles. The Applicant helpfully provided this information shortly after CAH1. NH is now reviewing the Applicant's shapefiles against its own land interest boundaries, and expects to be able to verify the information in the Book of Reference by Deadline 2.</p>	<p>The Applicants have now received details of National Highways' land interests and will review the same.</p>
CAH1 3.1.2	<p>Agenda item 3 – Statutory Undertakers</p> <p>NH made clear that it did not object to the scheme in principle. However, as set out in NH's Relevant Representation [RR-022], NH objects to the compulsory acquisition of its land/rights. The Applicant has helpfully excluded the vast majority of NH land from the scope of powers, but it seems that there are some plots still subject to powers, and also some powers which still generally apply to the SRN.</p> <p>A preliminary review of the BoR has revealed that the Applicant is seeking compulsory powers over plots in which NH has rights. Having now received the shapefiles, NH is reviewing these plots and other plots in the Order limits.</p> <p>NH noted the Examining Authority's emphasis on 'operational land'. While the specific rights are being investigated by NH, the rights held by NH are 'relevant rights' for the purposes of s138 of the Planning Act 2008. The test in s138 is that an order may include provision for the extinguishment</p>	<p>The Applicants note the response and confirm that draft protective provisions in favour of National Highways are being reviewed with a view to them being agreed as soon as possible.</p>

	<p>of a relevant right “only if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates” (s138 (4) Planning Act 2008). It is unclear to NH why its rights (e.g. rights of entry to maintain apparatus for the benefit of adjoining land at plot 1/7) would need to be extinguished for the authorised development to proceed. If the Applicant intends to extinguish such relevant rights, the Applicant should clearly justify why the removal of those rights is necessary.</p> <p>NH confirmed that protective provisions are currently being negotiated with the Applicant. The Examining Authority will note that NH’s preferred protective provisions protect against the extinguishment of its rights (subject to reasonableness).</p>	
ISH1 3.2.1	<p>Agenda item 3 – Legal basis of determination of applications</p> <p>NH noted the discussion on the operation of sections 104 and section 105 of the Planning Act 2008. While a highways NSIP forms part of the scheme, NH understands that those highway works are only necessary as a result of the main site works, to which s105 applies. Accordingly, NH agrees with the position summarised orally by the Applicant, that strictly speaking both sections apply, but the highway works only arise as a result of the main works, which are assessed under s105. NH notes a similar position on the Gatwick Airport DCO and agrees with the Examining Authority position at paragraphs 23.1.1 – 23.1.3 of the Recommendation Report:</p> <p>Section (s) 104 of the Planning Act 2008 (PA2008) sets out the matters to which the Secretary of State (SoS) must have regard in deciding an application, and s105 of the PA2008 applies to an application where s104 does not apply. Where there is a relevant national policy statement s104 applies. In both cases the SoS must have regard to Local Impact Reports (LIR), prescribed matters, and any other matters which the SoS thinks are both important and relevant to their decision.</p>	<p>The Applicants note NH's response which aligns with its response to this point set out in its earlier representations at Item 3 of ISH1 within the Applicants' Post Hearing Submissions [REP1-052] and at ISH1 Action Point 8 of the Applicants' Response to Hearing Action Points [REP1-053].</p>

	<p>For the reasons set out in Chapter 3 we have considered the Proposed Development under s105 of the PA2008. The Aviation National Policy Statement (ANPS) only has effect in relation to the delivery of additional airport capacity through the provision of a London Heathrow North West Runway.</p> <p>Nevertheless, the contents of the ANPS are both important and relevant considerations in the determination of an application for development consent for other airport development, particularly where that development relates to London or the south east of England (as in this case).</p> <p>The works to improve the M23/ A23, the North and South Terminal junctions and Longbridge roundabout are subsidiary to the airport works and are a Nationally Significant Infrastructure Project in their own right. Section 104 of the PA2008 applies to the highway elements of the Proposed Development although the highway works are subsidiary to the airfield works. Consequently, the National Networks National Policy Statement (NNNPS) is also an important and relevant consideration in the determination of the application (where appropriate).</p> <p>NH notes the Applicant’s confirmation during ISH1 that the MCO is being assessed against the latest legislation, guidance and standards. Any new highway works would therefore need to be in accordance with the latest highway standards. NH can confirm that the MCO addresses these concerns already, as the MCO protective provisions define “Road Safety Audit Standard” as including “any replacement or modification of that part of the Manual”.</p>	
ISH1 3.2.2	<p>Agenda item 5 – Relationship between the application for the DCO and that for the MCO</p> <p>NH confirmed that it was in discussions with the Applicant on the MCO. Additional analysis/modelling has been undertaken by the Applicant and</p>	<p>The Applicants confirm that further LinSig modelling has been carried out that assesses the MCO traffic (EMG1 Plot 16) at the A453/A6 Kegworth Bypass/EMG1 roundabout. The modelling confirms that there would be a negligible change in capacity and that no mitigation is required, as per the</p>

	NH is currently reviewing this. NH noted that the Applicant would be providing an update on this modelling at Deadline 1.	conclusions of the Transport Assessment. This document was submitted at Deadline 1 (Document MCO 7.10) and this has now been agreed with National Highways.
ISH1 3.2.3	<p>Agenda item 6 – Need and alternatives</p> <p>In response to comments on highway works and the Applicant’s mitigation, NH explained that in recognition of the need for a series of significant interventions at Junction 24 to mitigate the impact of the growth in the area, and to avoid a suboptimal piecemeal approach, a consortium of developers (including the Applicant, the owner of the power station, the proposed developers of a new village and other landowners) has been working on a strategic solution to address the forecast congestion at the junction. A design (which incorporates the Applicant’s proposed SRN mitigation) has been proposed to enable growth to come forwards, and work is under way to demonstrate that the proposed design is operationally effective through traffic modelling.</p> <p>NH has been involved in the discussions with the consortium and agrees that the mitigation proposed by the Applicant could in due course form part of a wider strategic solution for the junction. While mitigation / junction modelling for the whole strategic solution is not yet agreed, the Applicant’s work at J24 could support it. NH noted that the Applicant’s scheme helps eliminate forecasted congestion and there would be residual issues without the scheme.</p>	The Applicants note the response.
ISH1 3.2.4	<p>Agenda item 7 – Traffic and Transport</p> <p>On Requirement 27 (Mezzanine) NH confirmed that, from an operational perspective the mezzanine floor is unlikely to be a trip generator in comparison the to the ground floor. This has accordingly not been quantified through further modelling. NH noted that the modelling that has been undertaken to date provides a robust assessment which does not account for the potential success of a travel plan. The mezzanine floor</p>	The Applicants note and agree with National Highways’ position on the trip generation for mezzanine floor space in comparison to the ground floor space and this supports the Applicants' use of a 50% reduction factor for trip generation of mezzanine floor space in the core assessment. The Applicants

	<p>has been dealt with through an agreed requirement with the Applicant that reflects its treatment in the modelling. NH is open to feedback on the drafting of the requirement provided that the principle remains secured.</p> <p>NH confirmed that the Road Safety Audit was agreed, and 3 departures from highway standards remained outstanding (with agreement expected shortly). All geometric departures were agreed by NH post-hearing.</p>	consider this to be a robust worst case and is verified by recorded trips generated by EMG1.
ISH2 3.3.1	<p>R6D17 Article 13 – Accesses: NH noted the Applicant’s comments on accesses. NH’s understanding had been that there were no new accesses on the SRN. NH will review the Applicant’s updated position and welcomes discussions on this point if the Applicant’s works have changed. NH’s position is that there should be no new accesses to the SRN without agreement and review by NH.</p>	See the Applicants' response to paragraph 2f(iv) of National Highways' written representation below.
ISH2 3.3.2	<p>Protective Provisions (Action Point)</p> <p>NH provided a brief update on the status of the protective provisions. The Applicant has provided NH with a list of key issues. NH agreed to provide the Examining Authority with a list of key outstanding issues, and these are set out below:</p> <ul style="list-style-type: none"> • Current guidance / standards: NH’s standard protective provisions refer to various standards that have not yet been incorporated into the protective provisions by the Applicant. Clarity is being sought by NH. • Deemed consents and Notice Periods: NH has communicated to the Applicant that it is prepared to accept the deemed consent provisions adopted in the Northampton Gateway Rail Freight Interchange Order 2019, which operated effectively for both parties. This would provide sufficiently robust notice periods as to ensure that any safety implications of works being carried out on the SRN are avoided. • Exercise of DCO Powers: NH welcomes paragraph 19 (Land) of the Protective Provisions which controls the exercise of compulsory powers 	The Applicants note the response and confirm that draft protective provisions in favour of National Highways are being reviewed with a view to them being agreed as soon as possible.

and extinguishment of NH's rights. However, other powers in the draft Order still materially impact NH. For example, the street work powers which apply to the SRN. NH is seeking reasonable controls over the exercise of these DCO powers, and has reduced its list of proposed controls.

- Bond: NH requires a 200% bond for major schemes of this nature. The Applicant is seeking a 120% bond. Given the scale of the works, the precedent for a 200% bond for highway NSIP works (e.g. Gatwick Airport), and the potentially significant impact on the public purse, NH considers 200% reasonable, proportionate and justifiable. NH draws the Examining Authority's attention to paragraph 442 of the Secretary of State's decision letter on the Gatwick Airport scheme, dated 21 September 2025.

- Commuted sum: NH requires a commuted sum to be paid where a third-party developer constructs parts of the SRN to be owned and managed by NH. The specific sum is to be negotiated between the parties but the Applicant seems opposed to the principle of a payment owing to perceived betterment to NH. The highway works arise as a direct result of the Applicant's proposals. NH's view is that it is therefore reasonable for the Applicant to contribute towards the future maintenance of these works. NH is a publicly funded body, and it would be disproportionate and unreasonable to pass on the entire sum to the public as the Applicant is currently seeking to do.

- Insurance: NH is seeking a £50 million insurance sum whereas the Applicant is seeking a significantly lower sum (£10 million). £50 million is now the amount sought by NH across highways NSIPs. In the unlikely event that insurance was used, NH does not consider it reasonable or proportionate for a scheme of this scale to pass on costs over £10m to NH (and effectively, the taxpayer).

NH also noted that the Examining Panel referred to disputes between the parties on definitions such as "NH" vs "National Highways". NH has

	<p>reviewed this point and respectfully submits that those comments were based on a misunderstanding. For the avoidance of doubt, the key issues being negotiated between the parties are as set out above. While the form of protective provisions enclosed with NH's Relevant Representation include minor typographical differences, these are not in dispute nor is either party spending time negotiating these points. NH included its standard form of protective provisions with its Relevant Representation so that the Applicant, and the Examining Panel had a copy and understood the key points sought by NH. NH will mark up the version of the protective provisions on the face of the Order prior to the close of examination if an agreement is not reached.</p>	
ISH1 4.2	<p>Article 18 – NH does not have any in principle objection to the Applicant seeking to enter into agreements to erect signage on highways.</p>	<p>The Applicants note the response.</p>
ISH2 5.1.1	<p>The Applicant's microsimulation modelling, based on forecasts in both PRTM19 and PRTM23, which have been validated by NH, demonstrates the following:</p> <ul style="list-style-type: none"> • In 2028, with no development in place, there is forecast to be severe congestion on the SRN, specifically causing lengthy queues on the M1 Northbound offslip at Junction 24 and back onto the mainline carriageway, causing significant delays and safety concerns relating to shunt type collisions. • Without mitigation, the proposed commercial development would worsen the situation on opening. The proposed mitigation would provide sufficient capacity to enable the development traffic to be accommodated safely on the SRN and would result in there being no residual cumulative impacts, including at M1 Junction 24, the M1 northbound offslip or on the M1 mainline carriageway. • It is not possible to say whether the proposed SRN works in this DCO application would be required to mitigate the impact of the development on the northern part of the site, which is the subject of a separate planning 	<p>The Applicant notes National Highways' position. For the avoidance of doubt the PRTM Forecasting Report referred to by National Highways is that put forward by Manchester Airport Group / Prologis for the Joint Application for the land north of Hyams Lane.</p>

	<p>application, as NH only received the PRTM Forecasting Report on 27 March and has not yet agreed the modelling. Therefore, the impact of that development and the mitigation required is not yet understood.</p> <ul style="list-style-type: none"> • In relation to forthcoming developments, NH has insufficient information from agreed modelling to know the specific mitigation requirements for other developments in the general vicinity of M1 J24. 	
ISH2 5.1.2	<p>In summary, the EMG2 modelling has been agreed by NH, and is accepted as robust, demonstrating that the proposed mitigation in this DCO is required to mitigate the impact of the EMG2 development and is required by the end of the current decade to remove extensive queuing from the M1 Junction 24 northbound offslip and mainline. The mitigation proposed within this DCO alleviates NH's safety and congestion concerns on the M1. Based on this modelling, it can be concluded that the proposed mitigation package will be needed as part of an overall solution to congestion at M1 Junction 24, in conjunction with other interventions to mitigate the impacts of other major developments.</p>	The Applicants note the response.
ISH2 5.1.3	<p>Appendix A contains a Position Statement agreed with the Applicant that outlines the Strategic Benefits of the proposed scheme, which is being submitted by the Applicant at Deadline 1.</p>	The Applicants confirm that the position statement is the same as that submitted by the Applicants at Deadline 1 [REP1-060D].
ISH2 5.2	<p>Action Point 20: To confirm the position regarding the use of the EMGP1 zone as the most appropriate PROXY for the EMFM construction traffic forecasting assessment given paragraph 2.3.4 of Appendix 74 of the TA states that there is no EMFM zone in the immediate vicinity of the M1 junction 24.</p> <p>NH is satisfied that the use of the EMGP1 zone is a suitable proxy for the EMFM construction traffic forecasting assessment.</p>	The Applicants note the response.
Written representations		
No.	Matter	Applicants' Response

2a.	<p>Transport Assessment/Modelling</p> <p>All modelling relating to EMG2 is complete and acceptable to NH, demonstrating that the proposed SRN works are required and successfully mitigate the impacts of the development. The TA [APP-080 – 084] needs to be updated, and NH understands that the Applicant intends to submit an Appendix to the TA at Deadline 1. The separate assessment of the impacts of the MCO proposals have been received by NH and are under review. Based on an initial review, no adverse impact in terms of safety or capacity on the SRN is envisaged.</p>	The Applicants note the response.
2b.	<p>Construction Management</p> <p>NH is satisfied with the changes made by the Applicants the CTMP [APP-074]. A draft CTWP was shared with NH on 19 March and comments were provided to the Applicant on 24 March.</p>	The Applicants note the response and confirm that a revised Construction Traffic Management Plan (CTMP) will be submitted at Deadline 2 as an updated appendix to the Construction Environmental Management Plan [APP-074].
2c.	<p>DMRB Compliance</p> <p>Two geometric departures remain under review by NH following minor adjustments to design. These are expected to be agreed shortly, after which five further departure requests will be submitted to NH relating to signage and signals. These need to be approved for NH to accept the proposed design.</p>	<p>The two outstanding geometric departures referred to were approved by National Highways on 31/03/2026 which may have been too late to be captured in National Highways' written representation (although it is noted that paragraph 3.2.4 of National Highways' response to action points from hearings confirms that <i>"All geometric departures were agreed by NH post-hearing"</i>).</p> <p>The Applicants' latest formal position with regards to departures from standard is captured at Appendix 4 of Appendix 28 of the TA [REP1-031 to REP1-050], and work on the signage and signal departures is progressing.</p>

2d.	<p>Environmental Impact</p> <p>Clarification from the Applicant on the technical details of the air quality assessment and regarding the specific Biodiversity Net Gain (BNG) implications for the SRN remain outstanding and are required to be resolved.</p>	<p>The Applicants refer to their response to ExQ1.5.1 and EXQ5.0.2 [REP1-054].</p> <p>The Applicants confirm that updated ES chapters on air quality and ecology, and an updated Biodiversity Net Gain Report will be submitted at Deadline 3.</p>
2e.	<p>Compulsory Acquisition</p> <p>Following the provision of the shapefiles by the Applicant, NH is reviewing the land parcels affected by EMG2, of which there may be as many as 231 in which NH has an interest (although NH acknowledges that the vast majority/potentially all of its land parcels are excluded from the scope of compulsory powers). The review is due to be completed after Easter, following which we will discuss any concerns with the Applicant. We will provide an update on the position at Deadline 2.</p>	<p>The Applicants have now received details of National Highways' land interests and will review the same.</p>
2f.	<p>Draft DCO Articles</p> <p>NH objects to numerous articles in the draft DCO that would authorise interference with NH's statutory powers or grant the Applicant powers over the SRN without adequate controls. Key objections are set out below but NH reserves its right to comment further following receipt of the Applicant's response to its Relevant Representation:</p> <p>i) Street Works (Article 8): NH objects to powers to break open streets (which includes the SRN) without proper coordination. These powers either need to expressly exclude the SRN or they need to be controlled by the Protective Provisions. NH's preferred protective provisions include reasonable and proportionate controls over the exercise of powers under this article.</p> <p>ii) Power to alter layout, etc., of streets (Article 9): NH understands from Issue Specific Hearing 2 that the Applicant is preparing to amend this</p>	<p>The Applicants confirm as follows:</p> <p>Point i) – The Applicants propose that this matter be addressed in protective provisions.</p> <p>Point ii) – The dDCO [PDA-004D] submitted at Deadline 2 makes this amendment.</p> <p>Point iii) – The Applicants note the response.</p> <p>Point iv) - As stated in the Applicants' Schedule of Changes to the dDCO submitted at Procedural Deadline A [PDA-008D], item R6D17: 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. These temporary accesses will be part of</p>

	<p>article (or the Explanatory Memorandum) to clarify that the power does not apply to the SRN.</p> <p>iii) Temporary stopping up of streets (Article 11): NH requires consent and road space booking for any temporary closures affecting the SRN. NH's preferred protective provisions include reasonable and proportionate controls over the exercise of powers under this article.</p> <p>iv) Accesses (Article 13): No new or amended accesses from the SRN are permissible without a safety case being approved by NH. NH awaits clarity from the Applicant on temporary accesses at Deadline 1.</p> <p>v) Compulsory Acquisition (Article 22-23): NH objects to compulsory powers over its land, rights, subsoil, and airspace. NH's preferred protective provisions include reasonable and proportionate controls over the exercise of powers under this article.</p> <p>vi) Temporary Use of Land (Articles 32-33): NH objects to temporary possession powers without consent. NH's preferred protective provisions include reasonable and proportionate controls over the exercise of powers under this article.</p> <p>(b) Felling or lopping of trees and removal of hedgerows (Article 38): NH objects to the breadth of these powers which may render it in breach of its environmental obligations. The powers should not apply to any part of NH's estate without NH's consent.</p> <p>i) Deemed Consent: NH objects to the proposed deemed consent provisions. As previously set out, bypassing NH's approval process creates a risk to public safety, and where NH finds it requires further time, deemed consent provisions become counterproductive as NH may be forced to reject applications in order to avoid missing a deadline. However, in the interests of reaching an agreement with the Applicant, NH has confirmed to the Applicant that, noting the precedent agreed in the Northampton Gateway DCO, for which Segro was also the Applicant, NH will accept deemed consent provisions with 28 days' notice, a further</p>	<p>the traffic management proposals to be submitted as part of the Phase specific Construction Environmental Management Plan (P-CEMP) which is to be approved by NH and the Applicant considers that this will give NH sufficient control over the design and approval of temporary accesses.</p> <p>Point v) – The Applicants note the response and confirms that the protective provisions under discussion with National Highways will address this point.</p> <p>Point vi) - The Applicants note the response and confirms that the protective provisions under discussion with National Highways will address this point.</p> <p>Point b) - For any works within the public highway the Applicants confirm that the power is restricted by the need for approval from the relevant highway authority (Article 38 sub-paragraph 5).</p> <p>Point i) - The Applicants note the response.</p>
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	written request, and 28 additional days' notice before deemed consent applies. NH has requested this change as part of the protective provisions and hopes this can also be agreed for the DCO articles with deemed consent.	
2g.	<p>Requirements (Schedule 2)</p> <p>Requirement 7: Detailed design approval: NH objects to the wording of this requirement. No amendments should be made to highway works design without agreement of NH.</p> <p>Requirement 27: NH has agreed wording with the Applicant but now awaits comments from the Applicant and Local Highways Authority on enforceability. NH will review and provide its comments following receipt of the Deadline 1 submissions.</p>	<p>Requirement 7 does not apply to highway works as it only applies to the main site (the definition of main site in the dDCO [PDA-004D] does not include any highway works).</p> <p>Requirement 5 applies to the highway works which refers to the protective provisions.</p>
2h.	<p>Protective Provisions</p> <p>The protective provisions in the draft DCO are not agreed by NH. Discussions are ongoing with the Applicant's solicitors on matters of disagreement. These are set out in detail in NH's deadline 1 submission (NH's response to Written Questions and Actions). Briefly, the key issues between the parties are: Current guidance / standards, deemed consents/notice periods, exercise of DCO Powers, bond, commuted sum and insurance.</p>	The Applicants note the response and confirm that the protective provisions are under discussion.
3.1	NH provided its comments on the latest version of the SOCG on 24 and it is understood that an updated SOCG will be submitted by the Applicant at Deadline 1.	The Applicants confirm that an updated SoCG was submitted at Deadline 1 [REP1-076].
Responses to ExQ1		
ExQ	Interested Party's Response	Applicants' Response
1.2.8	NH has agreed the trip rates with the applicant for	The Applicants note the response.

<p>20% advanced manufacturing floorspace</p> <p>Paragraph 3.2.7 of chapter 3 of the ES [AS-025] states that the development would primarily comprise logistics buildings with up to 20% of the floorspace capable of being used for 'advanced manufacturing'. Please can the applicants clarify how this 20% limitation is secured in the dDCO and explain the environmental effects in the event this 20% limitation is exceeded. For example, why is the limitation important, does advanced manufacturing generate different environmental effects in relation to traffic, noise and disturbance compared to storage and distribution?</p>	<p>the relevant land uses. The trip rates are derived from TRICS, a national database widely recognised in the industry. This database calculates trip rates based on specific parameters such as land use and location, using a sample of observed data. This approach provides a solid foundation for the analysis. These trip rates reflect a robust assessment for all environmental impacts, because they do not account for the potential success of a travel plan, therefore, offering a more robust starting point for the analysis.</p>	
<p>4.0.3</p> <p>Reasonable worst case scenario complexity (Air Quality)</p> <p>Paragraph 8.2.58 of chapter 8 of the ES [AS-037] establishes four scenarios considered as part of the traffic modelling that underpins the air quality assessment. These modelling scenarios were broken down into sub scenarios in paragraph 8.2.55. What is the rationale for conducting such a multitude of scenarios? Does it present an overly complex approach, and could it be streamlined by adopting one definitive reasonable worst case scenario for each of the following:</p> <p>Baseline traffic EMG2 project traffic (with DCO and MCO assessed discretely) EMG2 project traffic (with DCO and MCO assessed</p>	<p>NH held a meeting with the Applicant on 27th February 2026 to discuss the comments on air quality within its relevant representation [RR-022]. NH received a response from the Applicant on 1st April 2026 and is reviewing the responses including a response in relation to the large magnitude of some of the modelling adjustment factors. NH notes that it has no preference regarding the number of air quality scenarios modelled.</p>	<p>The Applicants note the response.</p>

<p>discretely) + mitigation EMG2 project traffic (with DCO and MCO assessed discretely) + mitigation + cumulative project traffic</p>		
<p>4.0.10</p> <p>Modelling</p> <p>NH [RR-022] raised concern about the large magnitude of some of the modelling adjustment factors. On the other hand, NWLDC [RR-003] confirm that a range of matters in relation to the modelling have been agreed. For clarity, and subject to any PRTM 2023 updates, please can NH and NWLDC, in conjunction with the applicants, work together and coordinate a response on whether the modelling and subsequent conclusions are acceptable.</p>	<p>Please see response to Q4.0.3 above.</p>	<p>The Applicants note the response.</p>
<p>5.0.2</p> <p>Biodiversity net gain on the SRN</p> <p>NH [RR-022] set out that 10% BNG is required on the SRN. Can the applicants please clarify whether this has been achieved? If it has not been achieved, please can the applicants provide amended proposals to ensure it is achieved or justify why it is not necessary to achieve in this particular case.</p>	<p>The issue of the 10% Biodiversity Net Gain (BNG) provision on the SRN estate is yet to be resolved. NH is waiting for the Applicant to respond on this matter. NH will review the Applicant's Deadline 1 submissions to better understand their position.</p>	<p>The Applicants refer to their response to ExQ1.5.1 and EXQ5.0.2 [REP1-054].</p> <p>The Applicants confirm that updated ES chapters on air quality and ecology, and an updated Biodiversity Net Gain Report will be submitted at Deadline 3.</p>
<p>7.0.4</p> <p>Plots in which NH has an interest</p> <p>In its RR [RR-022] NH indicates that it had not</p>	<p>NH is currently reviewing the Book of Reference to identify whether each plot is operational or non-operational land. The review is expected to be completed by 10th April 2026. NH will provide an update in a submission at Deadline 2.</p>	<p>The Applicants have now received details of National Highways' land interests and will review the same.</p>

<p>completed its review of the Book of Reference.</p> <p>NH is requested to fully review the Book of Reference and submit a table setting out by plot the plots in which it has an interest and then indicating:</p> <p>whether the land is held as operational land, as defined the TPCA, or for some other purpose, and if so, what is that purpose</p> <p>where land is held as operational land, NH should explain why it holds that view, and how the proposed development, if permitted, would specifically cause serious detriment to the carrying out of the undertaking. This should be done on an individual plot basis but could be on a cumulative basis of individual plots. In this scenario it should fully explained why each plot is required as part of the cumulative effect.</p>	<p>In the meantime, the ExA should note that the rights held by NH on land subject to compulsory powers (e.g. plot 1/7) relate to access to and maintenance of apparatus owned by NH. This is therefore operational land for the purposes of s263 TPCA 1990 (land in which an interest is held for NH's statutory undertaking). The ExA is also respectfully asked to note that the relevant test for the purposes of the Planning Act 2008 is in s138, i.e. the Secretary of State must be satisfied that the extinguishment or removal of NH's rights is necessary for the purpose of carrying out the development to which the order relates. NH is not aware of any evidence from the Applicant to suggest that the extinguishment of NH's rights is necessary.</p>	
<p>8.0.2</p> <p>Deemed approvals</p> <p>All bodies which would approve approvals are asked to review the time periods set out and to comment as to whether they consider these periods appropriate. If a different period were to be sought, then the body should justify this revised period. Individual periods should be set out by provision.</p> <p>The ExP understands that the provisions are:</p> <p>Articles 9, 11, 13, 17, 19, 20. Schedule 13, part 1, paragraph 2 Schedule 13, part 2, paragraphs 4, 13</p>	<p>In the interests of reaching an agreement early in examination, noting the precedent agreed in the Northampton Gateway DCO, for which Segro was also the Applicant, NH has communicated to the Applicant that it will accept deemed consent provisions with 28 days' notice, followed by a further written request and 28 additional days' notice before deemed consent applies.</p> <p>This time period is required to enable NH to ensure the safe operation of the SRN in accordance with its Licence. There are safety implications of works being carried out to the SRN that may have bypassed NH's approval processes. The model outlined above worked successfully on the Northampton Gateway project, and it is</p>	<p>The Applicants note the response.</p>

<p>However, this should not be considered comprehensive, and parties are requested to consider the whole dDCO.</p>	<p>understood that the Applicant is supportive of its application on EMG2.</p>	
<p>8.1.1</p> <p>Article 9 – Power to alter layout, etc., of streets</p> <p>In its RR [RR-022] NH indicates refers to paragraph 7.27 of the EM [AS-015D]. This reference does not exist nor does the quote cited. Could the NH review this comment.</p>	<p>As NH explained during ISH2, and as summarised in the written submissions of EMG2, the typographical error was in fact a reference to the Explanatory Memorandum (EM) from the Northampton Gateway Rail Freight Interchange Order 2019, an Order promoted by the Applicant / a connected company. National Highways explained that on the Northampton DCO, the EM clearly explained that the power in article 9 only applied to private streets. NH was seeking clarity on whether the power applied to private streets only here, and that was confirmed by the Applicant during ISH2 (with confirmation that an amendment would be made to the DCO/EM).</p>	<p>The Applicants note the response.</p>
<p>8.1.2</p> <p>Article 13 – 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. However, in its Schedule of Changes to the Draft DCO submitted at Procedural Deadline A [PDA-008D] the applicants indicate that temporary access will be required to facilitate highway works on the SRN.</p> <p>Could NH please further comment on this matter and whether there should be a specific restriction</p>	<p>NH notes that the Applicant may be proposing temporary accesses. This has not been previously discussed and such accesses are not agreed. Any agreement relating to a temporary access from the SRN will be subject to a full safety assessment and Road Safety Audit.</p> <p>NH supports amending the article to limit its applicability to the SRN</p>	<p>See the Applicants' response above to paragraph 2f(iv) of National Highways’ written representation.</p>

<p>included within the requirement.</p> <p>Could LCC confirm that it is content with this provision for the local road network</p>		
<p>8.1.4</p> <p>Article 38 – Felling or lopping of trees and removal of hedgerows</p> <p>Could the identified parties please comment on the distance from the Order limits of 25 metres 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 will need to be fully justified both in response to this question and in the EM.</p> <p>Could NWLDC confirm whether presently there are any trees protected by tree preservation orders within 25m of the Order limits? Should this situation change, could NWLDC ensure this information is submitted into the examination.</p> <p>Is any party 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 party holds that view.</p>	<p>NH notes the distance and would benefit from clarity from the Applicant on where this power may be used (particularly if it is proposed to be used on NH's estate). NH proposes that this power is controlled by the protective provisions to avoid unduly impacting.</p> <p>Any activity would need to be agreed in advance with NH and any loss on NH's estate would need to be replaced by the Applicant (as well as an additional 10% gain) on the estate.</p>	<p>See the Applicants' response above to paragraph 2f(b) of National Highways' written representation.</p>
<p>8.3.1</p>	<p>Requirement 4: Sustainable Transport: NH notes the reference to a "transport working group" at</p>	<p>The Applicants agree that National Highways will be a member of the</p>

<p>Consultee in requirements</p> <p>In various requirements there is a requirement for consultation with a statutory body prior to the decision maker deciding whether to approve details pursuant to requirements. Could all statutory parties review the requirements and confirm whether consider that the current arrangements are appropriate. Should they wish to amend this, could they please set out where such a change should be made, and if requesting additional consultation explain why it is considered necessary.</p>	<p>paragraph 1 of this requirement. This seems to be the sustainable transport working group referred to at Schedule 15 to the draft DCO. NH has not been included in this group. NH's understanding from paragraph 6.1 of the Sustainable Transport Strategy [APP-084] was that NH were meant to be included.</p> <p>Given the impacts of the scheme on the SRN, NH considers it reasonable to be involved in the working group. Rather than NH requiring its own approval role, it seems reasonable for NH to approve/comment on proposals under requirement 4 as part of the working group.</p> <p>NH therefore requests that it is expressly added as a member of the sustainable transport working group at Schedule 15, para 1.</p> <p>As set out in NH's Relevant Representation [RR-022]: Requirement 7: Detailed design approval: NH notes that the design approach document can be reviewed and updated by the Applicant in agreement with the local planning authority. NH objects to the wording of this requirement. No amendments should be made to highway works design without agreement of NH, as the highway works comprise a NSIP in their own right, and the document covers highway design. It would be unreasonable for the Applicant and local planning authority to agree changes affecting the SRN without NH's agreement.</p>	<p>Sustainable Transport Working Group. The dDCO [PDA-004D] has been updated to reflect this, as this was agreed through the EMG2 Transport Working Group.</p> <p>Requirement 7 does not apply to highway works as it only applies to the main site (the definition of main site in the dDCO does not include any highway works). Requirement 5 applies to the highway works which refers to the protective provisions.</p>
<p>8.3.3</p>	<p>Whilst NH has agreed the Sustainable Travel Strategy [APP-084], it can see the benefits of the</p>	<p>The EMG2 Sustainable Transport Working Group (STWG) will operate</p>

<p>Requirement 4</p> <p>Could the applicants explain why the sustainable transport working group should only continue its duties for five years rather than in perpetuity, given the traffic generation figures for the life-time of the development are based on an effective travel plan? Furthermore, what arrangements should there be in place for a second and subsequent occupier of the buildings to ensure sustainable transport arrangements are continued?</p> <p>NWLDC, NH and LCC are all asked for their views on this.</p>	<p>sustainable transport working group continuing its duties in perpetuity as opposed to for only five years. NH would support this change in duration of the sustainable transport working group.</p> <p>Please note NH's response to Q8.3.1 relating to inclusion in this group</p>	<p>for the duration of the EMG2 Framework Travel Plan (FTP) delivery and monitoring period [APP-085].</p> <p>In line with Leicestershire County Council (LCC) guidance and as detailed in the FTP, this monitoring period runs from first occupation until five years after full occupation of the final unit. Based on the occupation of EMG1, this is expected to equate to a 10-year monitoring period, aligning with the lifespan of the STWG.</p> <p>By the end of this period, the STWG will have fulfilled its role in allocating EMG2 Travel Plan and Bus Fund monies and monitoring the implementation of the FTP to meet the mode share targets. The group will then conclude, coinciding with the end of the Site-Wide Travel Plan Coordinator role (funded via the Travel Plan Fund) and the allocation of developer-funded network enhancements via the EMG2 Travel Plan and Bus Fund.</p> <p>Please refer to the Applicants' response to Q8.3.1 regarding National Highways' inclusion in the STWG.</p>
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<p>8.3.6</p> <p>Schedule 2 – Part 2</p> <p>Are NWLDC and the highway authorities content with the eight-week period for determination of all matters as set out in paragraph 1(2)(a)? If not, what period would they consider appropriate? Should different periods apply to different works? Any answer should be justified.</p> <p>Could the parties please give their views as to whether the phrase “before the end of the period in paragraph (a) or (b)” in paragraph 1(2)(c) is justified? Are NWLDC and the highway authorities content with the fee arrangement set out in paragraph 3? If not, what arrangements should be put in place? In paragraphs 4(8) and 4(9) should “must” be replaced with “may” in case of an outside event so as to ensure natural justice? In paragraph 4(13) should the appointed person be able to award costs under their volition? In the definition of “discharging authority” should this be referred to as a “body” as any party can be a discharging authority; they do not need to be created by statute?</p>	<p>NH is content with:</p> <ul style="list-style-type: none"> - the eight week period set out in paragraph 1(2)(a); - The “before the end” wording at paragraph 1(2)(c); The fee arrangements in the Schedule (note that National Highways can recover cost of approvals through the protective provisions, see paragraph 9 of the protective provisions) <p>NH notes the benefit of adopting “may” over “must”. NH has no material comments on costs or the drafting of the discharging authority provision.</p> <p>NH notes one minor typographical error in Part 2:</p> <ul style="list-style-type: none"> - At 4(4), should the reference be to paragraph “2(c)” rather than “(c)”? 	<p>The Applicants note the response. The typographical error has been corrected in the dDCO [PDA-004D] to be submitted at Deadline 2.</p>
<p>8.4.1</p> <p>Protective Provisions - Part 1</p> <p>NH has referred in its RR [RR-022] on numerous occasions to ‘precedented’ provisions. NH is requested to provide these precedents, setting out the precise reference to paragraph number level.</p>	<p>NH draws the Examining Authority’s attention to:</p> <ol style="list-style-type: none"> 1. The Gatwick Airport (Northern Runway Project) Development Consent Order 2025 – Schedule 9, Part 3. Key points in dispute: <ol style="list-style-type: none"> a. Current guidance / standards: See the definition of ‘detailed design information’ at paragraph 20(2) b. Deemed consents and Notice Periods: 	<p>The Applicants note the response and confirm that it is reviewing the draft protective provisions proposed by National Highways.</p>

	<p>See deemed refusal at paragraph 25(4)(c) although NH is prepared to accept deemed approval on the basis of receiving 28 days notice plus a further 28 days as per The Northampton Gateway Rail Freight Interchange Order 2019 (see para 15, Part 2, Schedule 13)</p> <ul style="list-style-type: none"> c. Exercise of DCO Powers: See the controls over exercise of DCO powers at paragraph 25(2) d. Bond: See the definition of 'bond sum' at paragraph 20(2) e. Commuted sum: See the commuted sum at paragraph 34f. Insurance: See the insurance requirement at paragraph 70. <p>NH acknowledge the insurance requirement was only £10 million on this scheme. However, the level of insurance sought has increased across schemes as a result of higher risks and the cost of works on the SRN.</p> <p>2. The M5 Junction 10 Development Consent Order 2025 – Schedule 9, Part 3. Key points in dispute:</p> <ul style="list-style-type: none"> a. Current guidance / standards: See the definition of 'detailed design information' at paragraph 19(2) b. Deemed consents and Notice Periods: See deemed refusal at paragraph 24(4)(c), although NH is prepared to accept deemed approval on the basis of receiving 28 days' notice plus a further 	
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	<p>28 days as per The Northampton Gateway Rail Freight Interchange Order 2019 (see para 15, Part 2, Schedule 13)</p> <ul style="list-style-type: none"> c. Exercise of DCO Powers: See the controls over exercise of DCO powers at paragraph 24(2) d. Bond: See the definition of 'bond sum' at paragraph 19(2) e. Commuted sum: See the commuted sum at paragraph 33 f. Insurance: See the insurance requirement at paragraph 70. <p>NH acknowledge the insurance requirement was only £10 million on this scheme. However, the level of insurance sought has increased across schemes as a result of higher risks and the cost of works on the SRN.</p> <p>3. The Cambridge Waste Water Treatment Plant Relocation Order 2025 – Schedule 15, Part 5. Key points in dispute:</p> <ul style="list-style-type: none"> a. Current guidance / standards: See the definition of 'detailed design information' at paragraph 56(2) b. Deemed consents and Notice Periods: See deemed refusal at paragraph 60(4)(c) although NH is prepared to accept deemed approval on the basis of receiving 28 days' notice plus a further 28 days as per The Northampton Gateway Rail Freight Interchange Order 2019 (see para 15, Part 2, Schedule 13) c. Exercise of DCO Powers: See the controls over exercise of DCO powers at 	
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	<p>paragraph 60(2)</p> <ul style="list-style-type: none"> d. Bond: see the definition of 'bond sum' at paragraph 56(2) e. Commuted sum: See the commuted sum at paragraph 69 f. Insurance: See the insurance requirement at paragraph 70. <p>NH acknowledge the insurance requirement was only £10 million on this scheme. However, the level of insurance sought has increased across schemes as a result of higher risks and the cost of works on the SRN.</p> <p>On the Insurance provision noted above, the Examining Authority will note that this had been agreed with the promoter on the proposed Hinckley National Rail Freight Interchange (and forms part of the protective provisions accompanying the recommended order, as appended to the Recommendation Report). The figure is also agreed on the proposed Green Hill Solar Farm DCO (currently in examination).</p>	
<p>8.4.2</p> <p>Protective Provisions - All parts</p> <p>All those who would benefit from the protective provision in the dDCO are requested to fully review them. Should the protective provisions not be agreed, then the party is to provide their own set of protective provisions both in 'clean' and 'tracked change' from that submitted by the applicant. Furthermore, the party needs to explain on a</p>	<p>NH confirms that clean and tracked change versions of its preferred protective provisions will be submitted to the Examination if they are not agreed. NH proposes to submit these at the penultimate examination deadline.</p>	<p>The Applicants note the response and confirm that it is reviewing the draft protective provisions proposed by National Highways in the expectation that they will be agreed before the end of the Examination.</p>

<p>provision-by-provision basis why the drafting provided by the applicants is unacceptable and why its drafting is to be preferred.</p>		
<p>8.5.1</p> <p>Miscellaneous controls</p> <p>In the EM submitted as an additional submission [AS-015D] in response to the s51 advice issued at acceptance, the applicants have set out the reasoning for various disapplications of legislation. Would those who would otherwise be responsible for the issuing of appropriate approvals under the would be disappplied provisions comment as to whether they are content? If not, could they explain why they hold that view. If an 'alternative' position, for example one which may apply in certain areas but not others were to be acceptable, the party is asked to set that out, explaining their position.</p>	<p>NH has no comments on the disapplication of legislation at this stage.</p>	<p>The Applicants note the response.</p>
<p>9.0.1</p> <p>Updated MCO at Procedural Deadline A</p> <p>At Procedural Deadline A, the applicant updated the dMCO [PDA-006M] with an explanation for those changes in the Schedule of Changes document [PDA-008]. All IPs are asked to review these changes and the justifications for them and submit any comments that they may have into the examination.</p>	<p>NH has no comments on the updated MCO at this stage.</p>	<p>The Applicants note the response.</p>
<p>9.0.2</p> <p>Article 2(18), (19) and (20)</p>	<p>NH agrees, agreements should be secured 'in writing' and the drafting should be amended to reflect this.</p>	<p>The Applicants note the response and confirm that the dDCO [PDA-004D] is being updated accordingly.</p>

<p>In order to avoid ambiguity, could the applicant. NWLDC and NH consider whether their agreements should be in writing, and if so, could the drafting be amended to provide for this.</p>		
<p>9.0.3</p> <p>Article 2(26)</p> <p>Could the applicants explain why any occupier should only comply with the travel plan for five years rather than in perpetuity, given the traffic generation figures are based on an effective travel plan for the lifetime of the development? Furthermore, what arrangements should there be in place for a second and subsequent occupier of the buildings to ensure sustainable transport arrangements are continued? NWLDC, NH and LCC are all asked for their views on this.</p>	<p>Whilst NH has agreed the Sustainable Travel Strategy arrangements [APP-084], it can see the benefits of the sustainable transport working group continuing its duties in perpetuity as opposed to for only five years. NH would support this change in duration of the sustainable transport working group.</p> <p>Please note NH’s response to Q8.3.1 relating to inclusion in this group.</p>	<p>See the Applicants' response to ISH1 Action Point 24 [REP1-053] and to Q8.3.3 [REP1-054].</p> <p>The Applicants confirm that the dDCO has been amended to include National Highways within the group.</p>
<p>9.0.6</p> <p>Reasonable endeavours</p> <p>Article 2(18) inserts a new requirement stating, “The undertaker must use reasonable endeavours to complete the highway works identified as Works No. 8A in schedule 1 (authorised development) prior to occupation of plot 16 or such alternative trigger as may be agreed by Highways England.”</p> <p>Please can the applicants clarify whether the use of the phrase reasonable endeavours is sufficiently</p>	<p>NH’s view is that the phrase ‘reasonable endeavours’ is not sufficient for the purposes of this requirement. The highway works identified as Works No. 8A must be completed prior to occupation of plot 16, without reference to ‘reasonable endeavours’. The drafting which allows for an alternative trigger is acceptable in principle.</p>	<p>The Applicants confirm that the dMCO [PDA-006M] will be updated accordingly.</p>

<p>precise and enforceable. For example, if the undertaker uses reasonable endeavours but fails to complete the highway works prior to occupation, what would be the environmental effects? Would the environmental effects be such that it would be reasonable to require that highway works must be delivered prior to occupation? Given that reasonable endeavours could be open to interpretation, is it too ambiguous for the purposes of enforcement?</p> <p>In terms of drafting, should 'Highways England' be 'National Highways'?</p> <p>Comment from NH is also invited in respect of the above.</p>		
<p>16.0.19</p> <p>Design Manual for Roads and Bridges (DMRB) LA111 (Noise)</p> <p>ES chapter 7 [AS-035] table 7.3 records NH's request to identify where the "few places" with increases up to 1.6dB occur and the duration of those increases. In the same table, the applicant response states that the receptors with the highest magnitude of change are R04 (Radisson Blu, +2.1dB) and R11 (Grimes Gate, +3.4dB), that only R04 is on the SRN, and that the "up to 1.6dB" point relates to construction traffic noise assessed using DMRB LA111. Prologis's RR [RR-028D] reproduces NH's consultation response raising the same request. Could the identified parties please:</p>	<p>In its response to the Statutory Consultation, NH requested that the Applicant should indicate the exact locations/receptors from the noise modelling where increases up to 1.6 dB occur and the durations. NH has now reviewed and agreed the noise modelling with the Applicant and is satisfied with the Applicant's conclusions. Therefore, NH has no further comments to make on the topic of noise.</p>	<p>The Applicants note the response.</p>

<p>explain which locations/receptors are referred to as the “few places” where increases up to 1.6 dB occur whether any of these locations/ receptors are alongside the SRN the duration/time period(s) over which those increases are expected to occur</p>		
<p>19.0.1</p> <p>AECOM</p> <p>It is noted the AECOM has been commissioned by the applicants, NH and LCC in relation to the proposed development to support their individual positions. Could the parties set out their individual relationships (non-financial) with the company, along with what arrangements are in place to ensure that there has been no conflict of interests with AECOM ?</p>	<p>AECOM are NH’s appointed consultants for the Midlands region under a national spatial planning contract for technical support and advice on the review of development impacts, NSIPs, Local Plans and other forms of development that impact the SRN.</p> <p>AECOM are also the framework consultants for Leicestershire County Council (LCC), providing traffic modelling support. AECOM have been involved in the development and use of the Pan Regional Transport Model (PRTM, also known as the East Midlands Freeport model – EMFM in the case of the DCO) 2019 and 2023. LCC can commission AECOM directly themselves or on behalf of a 3rd party (typically Applicants/ Developers/ Promoters) to test the impacts of development using PRTM and/or undertake other modelling tasks. The latter is the case for the DCO.</p> <p>NH does not consider it appropriate that AECOM undertake strategic traffic modelling on behalf of an Applicant through the LCC contract and are then called upon by NH to appraise those outputs in the context of the SRN. NH therefore arranged for an alternative consultant from the spatial planning contract, Jacobs/ Systra Joint Venture (JSJV), to support NH on matters where AECOM</p>	<p>The Applicants note the response.</p>

	<p>is conflicted due to its work on the PRTM for LCC and third party developers. This arrangement has been in place since 2021, prior to the development of the evidence base for the DCO/MCO.</p> <p>In the context of the DCO and MCO, JSJV and AECOM have no commercial, business or any other relevant interrelated relationship. NH is satisfied that work undertaken by AECOM, commissioned by LCC on behalf of the Applicant, has been undertaken professionally without any conflicts of interest that may prejudice or otherwise unreasonably impact upon the examination.</p>	
<p>16.0.6</p> <p>Dualling of A453 west of Finger Farm Roundabout</p> <p>At ISH1 there was discussion about the potential dualling of the A453 west of Finger Farm roundabout.</p> <p>Could LCC please set out: what, if any, proposals have been drawn up for this section of road, providing drawings if necessary any timetable for potential works or triggers for a requirement, and how land would be secured and funding for the works themselves provided</p> <p>The applicants are asked: does the response have any implications in relation to your response to ExQ1</p> <p>Prologis and EMIA are asked to set out their understandings of this matter, along with any matters</p>	<p>NH supports the safeguarding of land to enable the future dualling of the A453. Although this is part of the local road network, it is adjacent to the SRN and it is important that there is sufficient capacity on all parts of the highway network if growth is to be safely and effectively accommodated.</p>	<p>The Applicants note the response.</p>

<p>within the joint application which would impinge on that.</p>		
<p>19.0.9</p> <p>Departures from highway standards</p> <p>The applicants have set out various departures from standards for the highways to be provided (see appendices 26 and 27 of the TA [APP-082]). Could NH and LCC please formally consider whether there are likely to be any issues in approving details post-consent?</p> <p>The ExP notes that once in principle consent has been granted the Courts have indicated that it would not be possible to refuse consent at the detailed design stage.</p>	<p>It is essential that Departures from Standard at the Preliminary Design stage are approved before the project is granted development consent. This will enable NH to support the proposed design in full and will de-risk the detailed design process. Some minor amendments to the design may be required at the detailed design stage. However, it is expected that design approvals will be agreed and that no works will be required outside the red line boundary.</p>	<p>The Applicants note the response.</p>
<p>19.0.11</p> <p>Isley Woodhouse development</p> <p>LCC is concerned to ensure that none of the proposed development would prejudice the delivery of any of the proposed allocations in the emerging local plan. Could the applicants please explain: what measures it has undertaken to ensure that this does not occur; and provide us with evidence to support any response? LCC, NH and NWLDC are all asked for comments in relation to the proposed Isley Woodhouse development.</p>	<p>The Isley Woodhouse development is currently subject to a live planning application (25/00865/OUT). It also forms a draft allocation in the North West Leicestershire District Council (NWLDC) emerging Local Plan (Draft North West Leicestershire Local Plan 2024 – 2042: IW1). In both cases, NH is engaged with NWLDC.</p> <p>NH required the Applicant to account for committed and emerging development proposals when undertaking its strategic traffic modelling assessment in line with the Department for Transport’s Transport Appraisal Guidance (TAG) Unit M4: Forecasting and Uncertainty, as well as the requirements set out in the DfT Circular 01/2022: Strategic road network and the delivery</p>	<p>The Applicants note the response.</p>

	<p>of sustainable development.</p> <p>TAG advises the practitioner to summarise all known assumptions and uncertainties in the modelling and forecasting approach in an Uncertainty Log. The data that informs the status, build-out and trajectory of developments in the Uncertainty Log (the planning data) is informed by information supplied by the various local planning authorities.</p> <p>For the DCO, this is documented in the associated Uncertainty Log and traffic modelling Proforma [TA 8.10 and 8.11]. This process takes account of the Isley Woodhouse development including the associated traffic demands within the PRTM 19 and PRTM 23 strategic modelling assessments. The Applicant refers to these included assumptions as the 'A variant'.</p> <p>TAG advises that it is essential that all assumptions made are fully documented in a forecasting report [TAG Unit M4: 2.1.4]. A full list of assumptions is appropriately included in the associated forecasting reports TA Appendix 41 and 45 sub appendices A and B [APP-82]. This is also documented in the forthcoming PRTM 23 Forecasting Report submitted by the Applicants at Deadline 1].</p> <p>NH is content that committed and emerging development, including Isley Woodhouse, has been taken into account in the Applicant's evidence.</p>	
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<p>19.0.15</p> <p>Traffic modelling</p> <p>Paragraph 14.27 of the TA [APP-080] indicates that there would be an increase of queuing on the Bostocks Lane arm of Junction 79 (M1 J25) of some 11.2%, that is from 133.8 PCUs to 148.8 PCUs. The applicants have described this increase as 'negligible' and would not affect the operation of the arm. NH and LCC are asked for their views as to the analysis and whether they consider any mitigation works are required at this junction from the effects of the proposed development taking into account paragraphs 5.281 and 5.282 of the NPSNN.</p>	<p>For the proposed development, the Area of Influence has been defined by considering the links which are forecast to change flow by more than $\pm 5\%$ and ± 30 PCUs between the 2028 and 2038 'With Development (1a)' and 'Without Development (1a)' scenarios in either the AM Peak or the PM Peak hours.</p> <p>Given M1 J25's strategic function and known capacity constraints at peak times, NH considered the junction warranted further analysis through the LinSig standalone junction modelling. This analysis is set out in the TA [APP-80 – 83].</p> <p>The analysis demonstrates that the junction is anticipated to operate over capacity both in the AM and PM peak hours. Whilst the junction is considered sensitive to variation in traffic flow, as demonstrated through the strategic and LinSig modelling, NH considers the scale and implication of the development traffic impacts to be both limited and mixed.</p> <p>Following the introduction of mitigation at M1 J24, the analysis shows betterment in junction performance at M1 J25 in 2038 but not in 2028 when comparing the with development to the with development and mitigation scenarios. The overall Practical Reserve Capacity (PRC) for the AM peak hour for the six scenarios is provided in TA [APP-80].</p> <p>The nature of strategic modelling means that network changes, such as the M1 J24 mitigation scheme, result in altered traffic distribution patterns.</p>	<p>The Applicants note the response.</p>
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	<p>For the Stage B assessment within the TA [APP-80], M1 J25 detailed junction modelling has not been undertaken due to the more limited impacts shown by the strategic modelling (PRTM 19 and 23).</p> <p>Consequently, a proposal for hard interventions, such as measures to increase capacity at M1 J25, are not considered proportionate nor reasonable by NH. The analysis does however continue to the need for a coordinated and effective site travel plan with supporting measures that seek to reduce car dependency contributing to mitigating the impacts of varying degrees including those beyond M1 J24.</p>	
<p>19.0.16</p> <p>Road Safety Audits</p> <p>There was discussion at ISH1 as to road safety audits. Could the applicants please ensure that any further road safety audits or iterations of those completed to date are submitted as they become available.</p>	<p>The RSA1 for the proposed SRN works has been completed and signed off by the overseeing organisation (NH). It is understood that the Applicant intends to submit the RSA1 at Deadline 1.</p>	<p>The Applicants confirm that the RSA1 was submitted at Deadline 1 [REP1-056].</p>
<p>19.0.17</p> <p>Traffic signals</p> <p>What analysis has been undertaken of ensuring the phasing between the various traffic lights in the vicinity of the EMG1 and EMG2 sites are coordinated to ensure the maximum free-flowing of traffic?</p>	<p>M1 J24 and the EMG1 site access (A453/A6 Keyworth bypass) signalised junction operate using adaptive traffic signal control systems called MOVA. This area has been modelled using VISSIM microsimulation.</p> <p>The MOVA configuration has been modified by the Applicant to reflect the proposed network changes associated with the mitigation measures</p>	<p>The Applicants note the response.</p>

<p>If none has been done to date, what analysis could be undertaken, and should this recommend particular solutions, how would these be secured?</p>	<p>(highways works). Through the audit of the VISSIM model and analysis which included receipt of the model itself, NH is satisfied that the configuration of the MOVA system is realistically reflected in the model and the Applicant's analysis.</p>	
<p>19.0.21</p> <p>TA Appendices 45 and 46 [APP-082]</p> <p>Appendix 46 to the TA VISSIM Local Model Validation Report indicates in paragraph 2.10 that surveys have identified the network peak hours as 0730 to 0830 and 1700 to 1800. However, other documents, such as Appendix 45 EMFM Stage 1B Modelling Forecasting Report Addendum have identified the peak hours as 0800 to 0900 and 1700 to 1800.</p> <p>Could the applicants, NH and LCC comment as to whether the difference in the morning peak have any implications for the modelling and the analysis thereafter?</p>	<p>NH's view is that modelling should model the highest demand periods for the area being analysed, whatever they may be. In the case of the VISSIM modelling, which is focused on the highway network in the immediate vicinity of East Midlands Airport (EMA), the observed AM and PM peak hours are 0730 to 0830 and 1700 to 1800 respectively.</p> <p>As noted, the PRTM 19 (and PRTM 23) PM peak hour is identical to the VISSIM PM peak hour but the AM peak hour is 0800 to 0900 rather than 0730 to 0830. This is because PRTM models a much larger area, including traffic movements associated with urban areas more specifically.</p> <p>In practical terms, the 30 minute difference in the AM peak hours in the local and strategic modelling will have no material implications for the results obtained from the two levels of modelling.</p>	<p>The Applicants note the response.</p>
<p>19.0.25</p> <p>Sustainable Transport Strategy [APP-084]</p> <p>Could NWLDC, LCC and NH comment on whether they consider that the one week taster bus tickets would be sufficient to provide an incentive? If they consider a different period would be more</p>	<p>NH has agreed the Sustainable Travel Strategy [APP-084], including the provision of one week taster tickets. However, it is recognised that an extended period of taster tickets would provide more of an incentive to encourage bus use.</p> <p>It should be noted that the mode share targets set out in the Framework Travel Plan [APP-085] are</p>	<p>Section 7.49 of the Sustainable Travel Strategy (STS) [APP-084] explains why a six-month free bus pass is not offered initially.</p> <p>The one-week pass is intended as a taster to encourage trial of bus travel at first occupation, after which</p>

<p>appropriate, could they provide that timeframe, providing a justification.</p>	<p>secured through two ring-fenced, indexed-linked funds secured via a S106 agreement.</p> <p>Where targets are not being achieved the Applicant will draw on the funds (via the Section 106 agreement) to deliver the mode share targets. Therefore, the Applicant should consider whether one week taster tickets provide sufficient incentive to achieve their bus mode share targets</p>	<p>employees can choose to purchase a longer-term season ticket.</p> <p>Given this approach has delivered strong bus mode share at EMG1 beyond the 10-year travel plan mode share targets, the Applicant views this as an appropriate measure and the offer of a six-month ticket would be more applicable as a fallback measure if targets are not met.</p>
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<p>19.0.27</p> <p>Severance and non-motorised user delay</p> <p>Paragraph numbers in this question related to Chapter 6 of the ES [AS-032].</p> <p>Paragraphs 6.8.10 to 6.8.18 deal with the issue of severance, and paragraphs 6.8.24 to 6.8.27 relates to non-motorised user delay which is stated to be “closely related to severance”.</p> <p>Both paragraphs 6.8.10 and 6.8.24 refer to a list of links where it is said that there would be an increase of 30% in AADT flows or HGVs.</p> <p>Looking at Table 6.9 there would appear to be a number of other links where AADT or HGVs would increase greater than 30% which have not been discussed. Could the applicants please explain why this has not occurred, since not all would not have non-motorised traffic excluded.</p> <p>Paragraph 6.8.10 notes those links where there would be a 30% increase in AADT figures. However, for links 18 and 19 it is stated that there would be “a reduction in traffic”. This is not shown in Table 6.9 where both show increases in total traffic. For Link 18 there is a small, -2/-5.4%, decrease in HGV traffic and no change in HGV traffic for link 19. Could the applicants therefore please justify the statement that there would be a beneficial effect from the proposed development on the links? This also relates to the comment in paragraph 6.8.25.</p>	<p>NH has no comments to make in relation to severance and non-motorised user delay in the traffic modelling.</p>	<p>The Applicants note the response.</p>
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<p>Paragraph 6.8.14 refers to Links 21 and 48, and the changes in traffic. While the percentage given of increase in AADT for link 21 is as given, (114%, that is a greater than doubling) that for link 48 is some 260% (that is over a three and a half times increase). Could the applicants please comment whether using the figure for link 48 makes a difference to the analysis?</p> <p>Paragraph 6.8.17 refers to Links 26, 100 and 126 and refers to areas in Hemington. However, links 100 and 126 are linked with link 68 and link 26 refers to the M1 southbound on-slip at Junction 23A. Furthermore, the plan does not show link 126 in this area, rather it shows link 150, although it is stated that this is a duplicate of link 100 in Appendix 4 of the applicants' response to s51 advice [AS-079]. Could the applicants confirm what paragraph 6.8.17 should refer to and amend the text appropriately. In addition, the text refers to a reduction in overall traffic numbers, which is not reflected in table 6.9. Could the applicants therefore please justify their statement that there would be a beneficial effect from the proposed development on the links? This also relates to the comment in paragraph 6.8.25</p> <p>Paragraph 6.8.31, in discussing non-motorised user amenity, sets out information in relation to link 158 in Kegworth. It states, in relation to peak hour movements that "EMFM shows there could be up to 420 movements, or one vehicle every 7 minutes in either direction. ... The impacts of one additional vehicle every 7 minutes will have a</p>		
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<p>negligible impact” (<i>italics in original</i>). 420 movements in an hour equates to 7 movements every minute. Using the correct analysis, could the applicants and other IPs comment on the data provided.</p>		
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<p>21.0.5</p> <p>Greenfield runoff rates</p> <p>Protect Diseworth [RR-025D] raised a significant number of concerns in relation to flood risk, including greenfield runoff rates. Please can the applicants clarify the greenfield runoff rate associated with existing surface water on the northern part of the EMG2 main site and community park that currently drains into Hall Brook?</p> <p>If it is lower than the greenfield runoff rate associated with existing surface water on the southern part of the EMG2 main site and community park that currently drains into Diseworth Brook, via the A42 culvert, would the proposed strategy within the Sustainable Drainage Statement [APP-149] inadvertently increase the rate of surface water entering the Long Whatton Brook catchment as a whole?</p> <p>For example, would the EMG2 works take surface water currently being discharged at a lower rate into Hall Brook, and instead discharge it at a higher rate into Diseworth Brook, via the A42 culvert? Consequently, would this increase the rate of some of the surface water entering the Long Whatton Brook catchment compared to baseline? As such, would there be an increase in flood risk elsewhere as a result of the proposed development?</p> <p>Does the EA, NH or LCC have any comments to make on this matter?</p>	<p>NH has no comments to make in relation to the Greenfield runoff rates.</p>	<p>The Applicants note the response.</p>
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<p>21.08</p> <p>1 in 1000 year credible maximum climate change floodplain</p> <p>Paragraphs 13.5.18 and 13.5.19 of chapter 13 of the ES [AS-056] identify that some of the highway works could encroach into the 1 in 1000-year credible maximum climate change floodplain, but such extreme flood events are above the design standard and do not require floodplain compensation. Does the EA agree with this statement, or should compensation be provided?</p> <p>For the avoidance of doubt, can the applicants clarify whether any part of the highway works, work no. 10 in particular, would flood during the 1 in 1000-year credible maximum climate change floodplain scenario? If yes, how would this be mitigated to ensure any residual risks are safely managed and that the SRN remained operational over the proposed development's lifetime in accordance with paragraph 5.133 of the NNNPS, and that it could adapt to climate change in accordance with paragraphs 4.33 to 4.44 of the NNNPS.</p> <p>The Exp would also invite comments from NH on these matters.</p>	<p>The Credible Maximum Scenario for the assessment is not the 1:1000 event but 1:100+60% event for fluvial flood risk. To inform the FRA, the Applicant has extracted peak water levels from the EA's River Trent hydraulic model, which provides peak fluvial water levels in the vicinity of Works Area 10 for the 1:100 +62% event. The statistical frequency of the Credible Maximum Scenario event is comparable to a 1:1000-year event, or an event that has an approximately 10% chance of occurrence every century. Paragraph 13.5.19 of Chapter 13 of the ES [APP-141] states that the scheme is outside the design flood extent, but that the carriageway is 'marginally' within the Credible Maximum Scenario extent. However, Paragraph 4.4.8 and Figure 4.11 of the FRA demonstrate that under the Credible Maximum Scenario event the carriageway of the A50 westbound merge would be flooded to a depth of 0.42m. In this rare climate change driven scenario, NH believes that it would be appropriate to manage the risk operationally. Should flooding of the mainline carriageway occur, the carriageway would be closed using advance overhead gantry signage on the M1 mainline, with access restricted solely to blue light emergency services for the duration of the event.</p>	<p>The Applicants note the response.</p>
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APPENDIX 4

RESPONSE TO SUBMISSIONS MADE BY THE ENVIRONMENT AGENCY

Responses to ExQ1		
ExQ	Interested Party's Response	Applicants' Response
<p>8.0.2</p> <p>Deemed approvals</p> <p>All bodies which would approve approvals are asked to review the time periods set out and to comment as to whether they consider these periods appropriate. If a different period were to be sought, then the body should justify this revised period. Individual periods should be set out by provision.</p> <p>The ExP understands that the provisions are:</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>However, this should not be considered comprehensive, and parties are requested to consider the whole dDCO.</p>	<p>The Environment Agency is satisfied with the time periods set out and deem them appropriate.</p>	<p>The Applicants note the response.</p>

<p>8.3.1</p> <p>Consultee in requirements</p> <p>In various requirements there is a requirement for consultation with a statutory body prior to the decision maker deciding whether to approve details pursuant to requirements. Could all statutory parties review the requirements and confirm whether consider that the current arrangements are appropriate. Should they wish to amend this, could they please set out where such a change should be made, and if requesting additional consultation explain why it is considered necessary.</p>	<p>The Environment Agency request to be named on the following requirements:</p> <p>Requirement 11 – Construction Environmental Management Plan, to ensure appropriate mitigation during construction.</p> <p>Requirement 16 – The EA is satisfied to be named within this requirement, should any variations be made to the flood risk assessment, consultation with the EA is required.</p> <p>Requirement 17 – Consultation with the EA is requested to be included along with the LLFA for any surface water drainage design.</p> <p>Requirement 18 – The EA requests to be included as a named consultee for requirement 18, along with the local planning authority.</p> <p>Requirement 22 (3) & (4) – We request the addition of being a named consultee in both sections of this requirement along with the local planning authority to ensure direct consultation with the EA.</p> <p>Requirement 23 (1), (b) & (ii) – The EA requests to be a names consultee within the mentioned sections of requirement 22 to ensure adequate consultation is undertaken.</p>	<p>The Applicants confirm that these amendments have been made to the requirements. An updated dDCO [PDA-004d] has been submitted at Deadline 2.</p>
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<p>8.3.4</p> <p>Requirement 17</p> <p>Could the EA, LCC as local lead flood authority, and any person who is an approving body under schedule 3 of the Flood and Water Management Act confirm whether they are satisfied with the climate change allowance within this requirement. If not, could they set out what allowance each would seek and justify the quantum.</p>	<p>The Environment Agency would defer to the LLFA on this issue as it is related to the management of surface water flood risk, however as stated above the EA requests to be named consultee for this requirement due to the sustainable drainage statement which includes management measures of the water quality of surface waterbodies.</p>	<p>The Applicants confirm that this amendment have been made to the requirements. An updated dDCO [PDA-004d] has been submitted at Deadline 2.</p>
<p>8.3.5</p> <p>Requirement 18</p> <p>The EA is asked to comment as to whether the term "foul water strategy" should be defined as regards its purpose.</p>	<p>From a water quality perspective, we requested to be named consultee within requirement 18 as if the foul water strategy is unclear, it can pose a risk to the water environment. The terms "foul water strategy" should be defined in relation to each phase of the development.</p>	<p>The Applicants confirm that this amendments have been made to the requirements. An updated dDCO [PDA-004d] has been submitted at Deadline 2.</p> <p>The clarification on the foul water drainage strategy will be reflected in the updated ES Chapter 13 [AS-056] to be submitted at Deadline 3.</p>

<p>10.0.2</p> <p>Reference to Environment Agency</p> <p>Paragraph 14.5.104 of chapter 14 of the ES [AS-059] refers to remediation measures being "agreed with the Environment Agency". However, requirements 22 and 23 of the dDCO provide for submission to and approval in writing by the local planning authority. Could the applicants:</p> <ul style="list-style-type: none"> • clarify whether these references are intended to describe consultation or formal agreement/ approval • set out the intended discharge process for requirement 22 and 23, identifying: <ul style="list-style-type: none"> ○ the approving body ○ any consultees (including the EA) ○ how consultation would be secured ○ any other drafting relied upon (e.g. protective provisions) <p>if formal approval by the EA is intended, provide the precise drafting change(s) required to secure that role and explain why this is necessary</p>	<p>Formal agreement will need to be sought from the Environment Agency on matters relating to risks to controlled waters. The local planning authority can advise the developer when liaison with the Environment Agency will be required.</p> <p>As previously stated, we will request the addition of "and the Environment Agency (if required)" after "local planning authority" in Draft DCO Requirement 22 (3) and (4), and Requirement 23 (1)(b)(ii). We raised this at Relevant Representations (RR051M).</p>	<p>The Applicants confirm that these amendments have been made to the requirements. An updated dDCO [PDA-004d] has been submitted at Deadline 2.</p>
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<p>10.0.8</p> <p>Waste transfer station record</p> <p>ES chapter 14 [AS-059] table 14.3 states that the EA accepted data supporting the position that the recorded Waste Transfer Station on the EMG2 Works is a geo-referencing error, and records an acceptance date of 21 April 2025.</p> <p>Appendix 14A [APP-153] similarly states that correspondence between Fairhurst and the EA confirms that the EA regard the Waste Transfer Station as a geo-referencing error, but records that the data supporting this was accepted by the EA on 22 April 2025.</p> <p>Can the applicants and the EA:</p> <ul style="list-style-type: none"> provide the correspondence/ evidence relied upon to support the conclusion that the Waste Transfer Station record is a geo-referencing error, and confirm the correct date on which the EA accepted the supporting data <p>confirm that the Waste Transfer Station record has been treated consistently across ES chapter 14 and appendix 14A (including that it has been discounted as a potential source of contamination) and identify any required correction(s) to ensure consistency</p>	<p>The Environment Agency received an email from Fairhurst on 15th April 2025, which included extracts from the Envirocheck report and historical mapping used to produce the desk study. This provided further information about the Waste Transfer Station. We compared the details and Licence Reference to our records. The entry appears to relate to permit HP3693CW (formerly Waste Management Licence No. 43288, formerly Permit 161), which is associated with East Midlands Airport and outside the DCO boundary. As such, we agreed that this appeared to be a georeferencing error and were happy to resolve the comment. We replied to confirm our acceptance on 22nd April 2025.</p>	<p>The Applicants note the response.</p>
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<p>14.0.3</p> <p>Site Waste and Materials Management Plan (SWMMP)</p> <p>ES chapter 18 paragraph 18.5.84 <u>[AS-067]</u> states that the principal mitigation measure is implementation of the CEMP and phase-specific P-CEMPs submitted pursuant to dDCO requirement 11, and further in paragraph 18.5.85 states that, although not required by regulations, a Site Waste and Materials Management Plan (SWMMP) will be regularly updated during the lifetime of the DCO Scheme and is provided as appendix 18E <u>[APP-190]</u>.</p> <p>The CEMP paragraph 10.1 <u>[AS-027D]</u> states that each P-CEMP shall set out details of construction waste management in accordance with the SWMMP.</p> <p>Appendix 18E <u>[APP-190]</u> refers to the SWMMP "submitted with the DCO application" being "approved" and then reviewed/ updated (including refinement "in consultation with the local planning authority") and also contains reliance/ disclaimer wording limiting third-party reliance.</p> <p>The Commitment Register <u>[APP-226D]</u> links the SWMMP to a waste</p>	<p>Where the Site Waste Management and Materials Plan (SWMMP) relies on regulatory compliance processes, the Environment Agency (EA) and relevant waste planning authorities will be engaged as required through established statutory mechanisms. Any activities involving the management of waste materials must be undertaken in full compliance with the Duty of Care, including appropriate waste classification, secure storage, transfer by licensed carriers and the use of permitted or exempt facilities.</p>	<p>The Applicants note the response.</p>
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<p>management commitment (MW1) secured via dDCO requirement 24.</p> <p>Could the applicants, LCC and the EA:</p> <ul style="list-style-type: none"> confirm whether the SWMMP (appendix 18E) is relied upon to secure the mitigation identified in ES chapter 18 and, if so, at what stage it is intended to be "approved" and by whom explain how updates to the SWMMP will be controlled and enforced through the DCO (including the relationship between the CEMP/ P-CEMPs, requirement 24, and any operational waste management arrangements) confirm whether any amendment is required to the dDCO and/ or the CEMP/ SWMMP wording to ensure the SWMMP is clearly secured, enforceable and capable of being relied upon for the purposes of the Examination <p>confirm whether, and if so how, the EA and relevant waste planning authorities will be engaged during discharge/ implementation where the SWMMP relies on regulatory compliance processes (including Duty of Care and any permitting/ exemption requirements)</p>		
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<p>14.0.4</p> <p>Re-use of excavated materials</p> <p>ES chapter 18 appendix 18E [APP-190] states that excavated materials may be managed through the CL:AIRE Definition of Waste: Development Industry Code of Practice (DoWCoP), including preparation of a Materials Management Plan and review by a Qualified Person.</p> <p>ES chapter 18 paragraph 18.5.103 [AS-067] refers to certain material movements (including surplus soils/ topsoil) being managed "without classifying the material as waste".</p> <p>In its RR [RR-016D] the EA highlights the need for correct waste classification (including potentially hazardous streams) and appropriate regulatory controls depending on circumstances.</p> <p>Could the applicants and the EA clarify:</p> <ul style="list-style-type: none"> • what is meant by "without classifying the material as waste", including how any proposed donor site movements would be managed and evidenced what process/ controls will apply if excavated materials are classified as hazardous or otherwise unsuitable for reuse, and signpost where this is set out in the SWMMP and how it is secured 	<p>"without classifying the material as waste" would involve the use of CL:AIRE, soils and topsoils are normally classified as a waste, however, Under the CL:AIRE Definition of Waste Code of Practice, materials may be reused without being classified as waste through several recognised scenarios, including reuse (treated or untreated) within the site of origin, the direct transfer of clean, naturally occurring soils between sites for a defined use without treatment, the use of cluster projects where multiple nearby sites share a treatment hub with materials reused across the cluster, and the use of fixed soil treatment facilities where treated materials are fully recovered and demonstrated to be suitable for a defined end use.</p> <p>For the purposes of the development, this means that excavated materials would be reused as non-waste materials by demonstrating that they are not discarded, not intended to be discarded, and not required to be discarded. This determination would be made on a site-specific basis and supported by appropriate risk assessment to demonstrate protection of human health and the environment, suitability for intended use, certainty of use, and that quantities used do not exceed those required by the approved design.</p> <p>Should any excavated materials be identified as hazardous or otherwise unsuitable for reuse on site, they would be immediately segregated and managed as waste in accordance with the applicable waste legislation.</p>	<p>The Applicants refer to their response to this ExQ [REP1-054].</p>
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<p>through the CEMP/ P-CEMP and/ or any relevant requirement</p>		
<p>14.0.5</p> <p>Hazardous waste</p> <p>The paragraphs 18.9.5 and 18.9.12 of the ES chapter 18 [AS-067] states for both the DCO Scheme and the MCO Scheme that potential arising of hazardous waste has not yet been quantified, but that the worst-case scenario does not anticipate hazardous waste arisings greater than 0.35% of the regional hazardous landfill void capacity.</p>	<p>The EA requires that all hazardous waste is to be sent to a suitable authorised facility and the movement of this is documented properly in consignment notes.</p>	<p>The Applicants note the response.</p>

<p>21.0.2</p> <p>Operational Environmental Management Plan</p> <p>The EA [RR-016] notes that the applicants should commit to producing an OEMP in order to secure appropriate operational mitigation related to pollution of the water environment. Please can the EA advise if there are any other areas where an OEMP could help mitigate the proposed development's environmental impacts. For example, could an OEMP help mitigate potential operational emissions and air pollution etc. and are there any precedents for such an approach in other made DCOs?</p> <p>Please can the applicants comment whether an OEMP would be necessary to help mitigate operational environmental impacts. If the applicants are of the view that an OEMP would not be necessary, please identify existing provisions within the dDCO and dMCO that would secure the necessary mitigation measures for the operational phase of the proposed development.</p> <p>Does NWLDC and LCC have a view on whether an OEMP would be necessary in the context of the above?</p>	<p>The OEMP would be a suitable document to outline a commitment and schedule from the applicant to clear trash screens within the site. This maintenance would contribute towards flood risk management within the site and the wider environment.</p> <p>Additionally, as stated in RR-016D, an OEMP can secure appropriate operational mitigation related to pollution of the water environment. However, it can also secure maintenance of site features, including SuDS, which will help manage surface water runoff, irrespective of any pollution.</p>	<p>In response to the Environment Agency's relevant representation, the Applicants noted that they have no objection in principle to the preparation of an Operational Environmental Management Plan (OEMP). However, it is important that its scope is clear and proportionate. The Applicants have accordingly made provision for an OEMP in a new requirement 33 of the dDCO [PDA-004D] submitted at Deadline 2 but left blank the description of the OEMP pending comments from the Environment Agency.</p> <p>In terms of the Scheme's operational drainage strategy, its long-term mitigation on the water environment is secured in Requirement 17(3) of the dDCO, which requires agreement of a long-term maintenance plan including monitoring and procedures to undertake during a pollution incident.</p>
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<p>21.0.3</p> <p>Performance of EMG1 drainage systems</p> <p>A number of RRs [RR-030D and others] raised significant concern about flooding in Kegworth, particularly in relation to the construction of EMG1 and Kegworth Bypass. Please can the applicants, LCC and the EA advise whether there is any ongoing monitoring of EMG1's drainage systems and whether it can be determined that such systems are performing in line with the modelling conducted as part of the EMG1 application?</p> <p>Furthermore, the ExP are particularly interested in whether LCC or the EA have any evidence that might corroborate the concerns raised in the RRs, that there has been an increase in local flooding since EMG1 was constructed. If there has been an increase, please can LCC and the EA advise whether there is any potential that this could be objectively attributed to EMG1, including Kegworth Bypass, and whether a more precautionary approach to modelling should be required for the proposed development?</p>	<p>The Environment Agency do not have any flow or level gauges on the East Midlands Gateway 1 drainage systems. With respect to hydraulic modelling for the East Midlands Gateway 1 project, we reviewed the hydraulic models for the Hemington and Lockington Brooks (Main Rivers) as part of this application and were satisfied with the modelling that the applicant had undertaken of these Main Rivers which are in the vicinity of the East Midlands Gateway 1 project. We were satisfied with the applicant's Flood Risk Assessment and that the development would not increase flood risk elsewhere from a fluvial perspective, particularly in the context of the Hemington and Lockington Brooks. With respect to surface water drainage from new development, we would defer to the view of the respective Lead Local Flood Authority on this matter. To determine whether a development has increased flood risk, it is necessary to understand how surface water runoff would behave both before and after the development is in place. This allows other influencing factors to be separated from the effects of the development itself. A core principle of new development is that appropriate sustainable drainage systems (SuDS) are incorporated to ensure that runoff and flood risk is not increased when compared to the undeveloped site. Our understanding is that the East Midlands Gateway Phase 1 project included surface water runoff attenuation storage to limit runoff from the proposed development. This is typical and similar SuDs features are proposed for the East Midlands Gateway 2 project. We would defer to Leicestershire County Council's view with respect to the adequacy</p>	<p>The Applicants note the response which aligns with the Applicants' own assessment.</p>
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	of surface water drainage proposals for the development.	
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<p>21.0.5</p> <p>Greenfield runoff rates</p> <p>Protect Diseworth [RR-025D] raised a significant number of concerns in relation to flood risk, including greenfield runoff rates. Please can the applicants clarify the greenfield runoff rate associated with existing surface water on the northern part of the EMG2 main site and community park that currently drains into Hall Brook?</p> <p>If it is lower than the greenfield runoff rate associated with existing surface water on the southern part of the EMG2 main site and community park that currently drains into Diseworth Brook, via the A42 culvert, would the proposed strategy within the Sustainable Drainage Statement [APP-149] inadvertently increase the rate of surface water entering the Long Whatton Brook catchment as a whole?</p> <p>For example, would the EMG2 works take surface water currently being discharged at a lower rate into Hall Brook, and instead discharge it at a higher rate into Diseworth Brook, via the A42 culvert? Consequently, would this increase the rate of some of the surface water entering the Long Whatton Brook catchment compared to baseline? As such, would there be an increase in flood risk</p>	<p>The Environment Agency would defer to the LLFA on this issue as it is related to the management of surface water flood risk.</p>	<p>The Applicants note the response.</p>
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elsewhere as a result of the proposed development? Does the EA, NH or LCC have any comments to make on this matter?		
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<p>21.0.8</p> <p>1 in 1000 year credible maximum climate change floodplain</p> <p>Paragraphs 13.5.18 and 13.5.19 of chapter 13 of the ES [AS-056] identify that some of the highway works could encroach into the 1 in 1000-year credible maximum climate change floodplain, but such extreme flood events are above the design standard and do not require floodplain compensation. Does the EA agree with this statement, or should compensation be provided?</p> <p>For the avoidance of doubt, can the applicants clarify whether any part of the highway works, work no. 10 in particular, would flood during the 1 in 1000-year credible maximum climate change floodplain scenario? If yes, how would this be mitigated to ensure any residual risks are safely managed and that the SRN remained operational over the proposed development's lifetime in accordance with paragraph 5.133 of the NNNPS, and that it could adapt to climate change in accordance with paragraphs 4.33 to 4.44 of the NNNPS.</p> <p>The ExP would also invite comments from NH on these matters.</p>	<p>With regards to paragraphs 13.5.18 and 13.5.19 of the Flood Risk and Drainage Chapter (13) of the Environment Statement. The Environment Agency agrees that nominal encroachment of the highway embankment into the 0.1% (1 in 1000) and credible maximum flood extents does not require floodplain compensation. Floodplain compensation would be required if the development encroached into the design event floodplain which in this case is the 1% (1 in 100) annual exceedance probability scenario for the 2080s period (between years 2070 to 2125) which a central allowance for climate change. The approach the applicant has taken aligns with the guidance on climate change allowances and assessing floodplain compensation requirements available online at Flood risk assessments: climate change allowances - GOV.UK</p>	<p>The Applicants note the response which aligns with the Applicants' own assessment.</p>
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<p>21.0.9</p> <p>Climate change scenario</p> <p>Paragraph 13.5.92 of chapter 13 of the ES [AS-056] states in accordance with best practice and local and national requirements, the drainage infrastructure will be designed to manage the design storm (the 1 in 100-year+25% storm) as well as the resilience check storm (the 1 in 100-year+40% event). Does Requirement 17(1)(a) in the dDCO need to be amended to state that the drainage infrastructure would be designed to manage the 1 in 100-year+40% event?</p>	<p>The Environment Agency would defer to the LLFA on this issue as it is related to the management of surface water flood risk.</p>	<p>The Applicants note the response which aligns with the Applicants' own assessment.</p>
<p>21.0.14</p> <p>Water Framework Directive screening</p> <p>The applicants submitted a Water Framework Directive WFD Screening [APP-147]. Is the EA satisfied that a full assessment can be screened out, that the conclusions of the report generally are acceptable and that the mitigation measures identified are secured in the dDCO and dMCO?</p>	<p>The EA still have some concerns over substation drainage design and ability to mitigate in the event of a fire. Furthermore, until the matter of an OEMP is determined (see comments to Q21.0.2) then how mitigation measures are secured there remains some water quality impacts during operation which could affect WFD status. Clarification of water quality monitoring is also still required. Provided these points are addressed the EA is satisfied that the mitigation measures proposed are acceptable to screen out full assessment.</p>	<p>In response to the Environment Agency's relevant representation, the Applicants noted that they have no objection in principle to the preparation of an Operational Environmental Management Plan (OEMP). However, it is important that its scope is clear and proportionate. The Applicants have accordingly made provision for an OEMP in a new requirement 33 of the dDCO [PDA-004D] submitted at Deadline 2 but left blank the description of the OEMP pending comments from the Environment Agency.</p>

<p>22.0.5</p> <p>CEMP – Surface water storage</p> <p>Paragraph 19.2 of the CEMP indicates that any onsite surface water storage during construction will be to the 1 in 100 year storm event "with an appropriate uplift for climate change applied will be provided (to align with the consenting authorities [sic] requirements)". Is it possible to include the relevant percentage at this time? If not, could an explanation be included as to how the percentage would be derived.</p>	<p>The Environment Agency would defer to the LLFA on this issue as it is related to the management of surface water flood risk</p>	<p>The Applicants note the response.</p>
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APPENDIX 5

RESPONSE TO SUBMISSIONS MADE BY NATURAL ENGLAND

Written representations		
No.	Matter	Applicants' Response
N/A	<p>Ongoing engagement between NE & the Applicant</p> <p>The Applicant has engaged with NE since submission of our Relevant Representations on ecology matters, and the Applicant's draft Statement of Common Ground (SoCG) should be submitted to your authority at Deadline 1. This SoCG should clearly set out both where NE and the Applicant have agreed matters, and where matters remain under discussion. NE will continue to work with the Applicant to update the SoCG throughout Examination.</p> <p>In addition to the SoCG, NE have attached to this response a Risk and Issues Log. This document has been written by NE and sets out each item raised within our Relevant Representations, with updated comments detailing engagement with the applicant to date, including an updated RAG (red, amber or green) rating.</p> <p>It is our intention that the Risk and Issues Log will continue to be updated and submitted to your authority at relevant deadlines, to maintain a clear record of issues tracking throughout examination.</p>	<p>The Applicants note the response and confirm that they will continue to engage with Natural England with a view to agreeing a SoCG.</p>
N/A	<p>Summary of Updated Advice</p>	<p>The Applicants note the response and confirm that they will continue to engage with Natural England with a view to agreeing a SoCG.</p>

In our Relevant Representations, NE did not raise any 'Red' fundamental concerns but did identify four outstanding 'Amber' items and two 'Yellow' items. The following provides a summary of progress with regards to these Amber and Yellow items. Further detail can be found within the Risk & Issues Log attached, and the Applicant's draft SoCG once submitted.

- RR Ref NE1 (Yellow)
 - NE note the comments provided by the Applicant (via email 24/02/26 – see submitted Risk & Issues Log) on the limited significance of the use of LNRS in the future baseline assessment. This is due to a lack of mapped measures within the Order Limits and limited ecological value within the future baseline. NE note that some of the unmapped measures could provide uplift to the future baseline but acknowledge the limited significance of impacts for consideration in the assessment. As such we are satisfied this has been justified and can be changed to Green in the SoCG.
- RR Ref NE3 (Amber) – No update since Relevant Representations.
- RR Ref NE4 (Amber) – No update since Relevant Representations.
- RR Ref NE5 (Yellow) – No update since Relevant Representations.
- DCO Requirement 11 (Amber) – No update since Relevant Representations.
- DCO Requirement 17 (Amber) – No update since Relevant Representations.

	<p>Detailed Advice on Protected Species, Soils and Agricultural Land</p> <p>Table 1 of these representations sets out any significant issues ('red' and 'amber' issues) which, in our view remain outstanding and includes our advice on pathways to their resolution where possible. Table 1 also shows 'green' issues where a resolution has been reached and subject always to the appropriate requirements being adequately secured and 'yellow' issues where Natural England doesn't agree with the Applicant's position or approach and we would ideally like this to be addressed but are satisfied that for this particular project it is unlikely to make a material difference to our advice or the outcome of the decision-making process. Natural England will continue engaging with the applicant to seek to resolve outstanding concerns throughout the Examination.</p>	
Responses to ExQ1		
ExQ	Interested Party's Response	Applicants' Response
<p>3.0.1</p> <p>Best and Most Versatile (BMV) agricultural land methodology</p> <p>In tables 15.3 and 15.4 of chapter 15 of the ES [AS-061], NE raises concerns regarding the methodology used to assess effects on BMV agricultural land. The applicants state that chapter 15 has been reviewed in response to these comments. Please explain:</p> <ul style="list-style-type: none"> • what changes, if any, have been made to the assessment methodology as a result of NE's comments 	<p>Following consultation with the Applicant through our Discretionary Advice Service, NE are satisfied that the BMV agricultural land assessment methodology is robust and in line with current IEMA guidance. Please see comments given in Annex A, Table 1 of this document (Refs NE15, 16, 17 and 18).</p>	<p>The Applicants note the response.</p> <p>The Applicants are continuing to engage with Natural England with a view to agreeing a SoCG (a draft SoCG was submitted at Deadline 1 [REP1-078] and a revised draft has been submitted at Deadline 2).</p>

<ul style="list-style-type: none"> • where these changes are documented in the ES chapter 15 • the current position of the applicants and NE on whether the revised methodology adequately addresses concerns raised by N 		
<p>3.0.3</p> <p>BMV significance threshold</p> <p>ES chapter 15 [AS-061] explains at paragraph 15.2.3 that a loss of</p> <p>20 ha or more of BMV agricultural land is treated as the critical threshold for significance, with reference to schedule 4, paragraph (y) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and published guidance. Please confirm:</p> <ul style="list-style-type: none"> • whether the “20 ha” criterion in paragraph 15.2.3 has been applied to permanent loss only, or to permanent and temporary effects combined, and where this is evidenced in ES chapter 15 (by paragraph/ table reference) • whether the assessment has appropriately taken account of the grade composition of BMV land affected (Grades 1, 2 and Subgrade 3a, 3b) in reaching the overall significance conclusion • whether NE agrees with the applicant’s application of the approach in this case and the resulting significance conclusions for effects on BMV agricultural land 	<p>Following our comments through our Discretionary Advice Service, NE are satisfied with the conclusion of significance of effect to BMV agricultural land. The Examining Authority will need to consider the permanent significant major adverse effect in the decision-making process.</p> <p>The Applicant should ensure methodology is clear on steps taken to avoid impacts to BMV agricultural land in the first instance for clarity to inform decision makers.</p> <p>NE have provided formal comment on this in Annex A, Table 1 of this document (Ref NE18).</p>	<p>The Applicants note the response and are continuing to engage with Natural England with a view to agreeing a SoCG (a draft SoCG was submitted at Deadline 1 [REP1-078] and a revised draft has been submitted at Deadline 2).</p>
<p>3.0.5</p> <p>Cumulative effects on BMV land</p>	<p>NE are satisfied with the approach taken on cumulative impacts on soils and have provided</p>	<p>The Applicants note the response and are continuing to engage with Natural England with a view to</p>

<p>ES chapter 15 [AS-061] states at paragraph 15.6.1 that an agreed methodology for cumulative effects of BMV land loss has not yet been established and refers to IEMA guidance proposing comparison of BMV land loss against changes in national and regional average land loss over a set period. Paragraph 15.6.1 further explains that a 3-year change in land use (2019–2022) has been used in tables 15.9 and 15.10, and notes that the guidance proposes that contribution to more than 1% of the average five-year national land loss would be significant.</p> <p>Paragraph 15.6.2 concludes that the EMG2 Works would have a significant cumulative effect on regional BMV land loss (table 15.9, 37%), but would not have a significant cumulative effect on the national stock of BMV land (table 15.10, 0.32%).</p> <p>Please could the applicants:</p> <ul style="list-style-type: none"> • explain the basis for using a 3-year average (2019–2022) for the cumulative comparison, and how this has been applied consistently with the five-year benchmark referred to in paragraph 15.6.1 • confirm the data sources and assumptions used to derive the regional and national BMV baseline figures in tables 15.9 and 15.10 and explain how uncertainty in those assumptions has been addressed • explain how the conclusion of a significant regional cumulative effect but not a significant national cumulative effect has been taken into account in the overall assessment of effects on BMV land (including the conclusions at section 15.7) • confirm whether NE agrees with the applicant's cumulative assessment approach and conclusions for 	<p>formal comment on this in Annex A, Table 1 of this document (Ref NE19).</p>	<p>agreeing a SoCG (a draft SoCG was submitted at Deadline 1 [REP1-078] and a revised draft has been submitted at Deadline 2).</p>
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<p>BMV land in section 15.6 of the ES chapter 15 NE is also given the opportunity to comment on the above.</p>		
<p>5.0.3 Skylarks Prologis [RR-024D] raised concerns about the delivery of key mitigation, especially for skylarks displaced by the DCO scheme. Please can the applicants provide more details about any mitigation for skylark. The ExP are particularly interested how any such mitigation located on the community park would be effective in the context of the park's multifunctional use. For example, among other things, would recreational users of the community park have the potential to disturb skylarks and diminish the effectiveness of skylark mitigation (see ExQ1.4.2)? Please can NWLDC and NE provide an updated position in relation to protected species and in doing so comment on the issue of skylark mitigation, and farmland bird species more generally.</p>	<p>Skylarks do not fall into the remit of NE as they are not a notified features of any relevant designated site and do not require an individual protected species license. As such, NE have no comments on this matter.</p>	<p>The Applicants note the response.</p>
<p>5.0.4 Veteran trees Please can the Forestry Commission, NE and NWLDC clarify whether they are satisfied with the applicant's assessment of veteran trees, including their role as irreplaceable habitats, as set out in the LEMP [APP-117], and whether there is compliance with paragraph 5.63 of the NNNPS?</p>	<p>Natural England have no formal or bespoke comment to make on veteran trees that are outside of designated sites and would direct the Examining Authority and Applicant to our standing advice: Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK.</p>	<p>The Applicant notes the response.</p>
<p>5.0.7 Badgers</p>	<p>Licenses will be required for works impacting badgers and their habitats as per our standing advice: Wildlife licences: when you need to apply - GOV.UK.</p>	<p>The Applicants note the response and are continuing to engage with Natural England with a view to agreeing a SoCG (a draft SoCG</p>

<p>Table 9.12 of chapter 9 of the ES [AS-039] states while badger welfare is protected under legislation they are common and widespread, and for planning purposes are not ascribed a particular conservation value and are considered to be of negligible importance. However, standing advice is clear that badgers should be protected for planning purposes. Are NE and NWLDC satisfied with the applicants' approach to badgers and that they are of 'negligible' importance?</p>	<p>NE have some comments on the Application's approach to impacts to badgers and provided formal comment on this in Annex A, Table 1 of this document (Ref NE24, -25, -26, and -27).</p>	<p>was submitted at Deadline 1 [REP1-078] and a revised draft has been submitted at Deadline 2).</p>
<p>5.0.10</p> <p>Hedgerow loss</p> <p>Please can NWLDC and NE advise whether they are satisfied with the extent of hedgerow loss as part of the proposed development and that it is consistent with the mitigation hierarchy? For example, would the detailed design on the EMG2 main site provide opportunities to retain some of the hedgerows that are currently identified to be lost?</p>	<p>Hedgerows do not fall into the remit of NE as they are not notified features of any relevant designated sites. As such we have no comment to make on hedgerows.</p>	<p>The Applicants note the response.</p>
<p>5.0.11</p> <p>Pre-Construction species surveys</p> <p>Are pre-construction species surveys necessary as a general measure, or are they only necessary in relation to specific species? In either case, have they been suitably secured in the dDCO and dMCO?</p>	<p>The Applicant may not need to provide a detailed survey if they are able to show that protected species are unlikely to be affected even if they are on or near a development site. They should demonstrate this through the assessment. This is as per our standing advice: Protected species and development: advice for local planning authorities - GOV.UK</p> <p>If additional surveys are needed to support species licence applications after consent is granted, it may not be necessary to secure these surveys within the DCO itself, because they are</p>	<p>The Applicants note the response.</p>

	already required as part of the licence application process.	
<p>5.0.12</p> <p>Securing ecological mitigation</p> <p>Ecological mitigation is contained in a number of documents, including the ES, LEMP, CEMP, the BNG Report and individual protected species reports. Are NE and NWLDC satisfied that these documents and the mitigation within them are suitably secured in the dDCO and dMCO? For example, is it clear that the habitat creation identified in the BNG Report [APP-116] is secured by the dDCO for the EMG2 works and the highway works, and by the dMCO for the EMG1 works?</p>	<p>The conditions required for species licenses should be included in the p-CEMPS, which are detailed in the DCO and MCO to include ecological mitigation works. In the DCO and MCO ecological mitigation works are noted to include creation of artificial badger setts only. This should be expanded to include all conditions on the granting of the individual species licences.</p> <p>We are satisfied that the LEMP is secured within the DCO under requirement 10. The measures for the MCO are to be compliant with the LEMP from the original EMG1 DCO, and as such we are satisfied this is adequately secured.</p> <p>We note that a Silt Management Plan was detailed within the ES of the DCO (Document DCO 6.3A). However, this was not included in the draft DCO. We recommend this is included within requirement 11 for the CEMP.</p> <p>We welcome the inclusion of requirement 17 for the management of surface water during construction and operation. We suggest the ongoing monitoring, management and maintenance is secured within the requirement.</p>	<p>The Applicants note the response and are continuing to engage with Natural England with a view to agreeing a SoCG (a draft SoCG was submitted at Deadline 1 [REP1-078] and a revised draft has been submitted at Deadline 2).</p>
<p>5.0.13</p> <p>Ecological traffic mitigation</p> <p>Paragraph 9.5.171 of chapter 9 of the ES [AS-039] discusses general mitigation to address traffic related harm. Is there scope within the detailed design to provide wildlife underpasses or wildlife crossings within</p>	<p>As these impacts do not relate to impacts to designated sites, NE have no specific comments to make on this based on the information presented. In general terms, we encourage any decision making on mitigation be based on the evidence and assessment presented with clear</p>	<p>The Applicants note the response.</p>

<p>the site, particularly for any protected species? If yes, how might this best be secured so that it is proportionate?</p>	<p>justification to ensure it is appropriate and proportionate.</p>	
<p>5.0.20</p> <p>Age of surveys</p> <p>Are NE and NWLDC satisfied with the age of habitat and species surveys? If updates would be required prior to commencing development, have such updates been secured in the dMCO and dDCO?</p>	<p>NE have some comments on the Application's approach to age of bat surveys and provided formal comment on this in Annex A, Table 1 of this document (Ref NE28).</p> <p>In terms of the age of surveys more generally, we would direct the Examining Authority to guidance from CIEEM: Advice note on the Lifespan of Ecological Reports and Surveys CIEEM.</p> <p>The CEMP notes that there will be an updated walkover survey for habitats (para 16.4), a precommencement badger survey (para 16.22) and pre-commencement bat survey (para 16.37). Paragraph 16.82 also notes the follow up activity should any species be found. To strengthen the CEMP, the timelines given within the advice note from CIEEM could be referenced to give further certainty on their relevance.</p> <p>The CEMP is secured by requirement and so is suitably secured within the DCO and MCO.</p>	<p>The Applicants note the response.</p>
<p>5.0.21</p> <p>Farmland bird habitat</p> <p>Please can the applicants calculate the percentage of existing farmland bird habitat that would be lost as a result of the cumulative projects within the region and indicate what proportion of that loss would be generated by the EMG2 project itself. Does NE or NWLDC have any concerns about the cumulative effects on farmland bird habitat? For example, would farmland birds</p>	<p>Natural England have no specific comments on birds in the general population outside designated sites.</p>	<p>The Applicants note the response.</p>

<p>displaced by the EMG2 project have sufficient habitat elsewhere in the region? Does EMIA have any concerns about the displacement of farmland birds in the immediate area surrounding the airport in regards bird strike risk?</p>		
<p>5.0.22</p> <p>Ecological zone of influence</p> <p>Are NE and NWLDC satisfied that Isley Woodhouse, and other such significant projects within the region, are outside the ecological zone of influence and would not have any impact pathways that would need to be considered cumulatively with the EMG2 project? Are the distances cited for the respective projects (2km - 5km) in table 9.34 of chapter 9 of the ES [AS-039] sufficient to draw such a conclusion in the context of the ecological receptors present within the region?</p>	<p>NE are satisfied with the conclusions of the ES in regard to cumulative (inter-project) impacts to designated sites from the development and Isley Woodhouse development. This is due to the impacts from the EMG2 development being suitably mitigated.</p> <p>In our comment at Relevant Representations (RR-023D, ref NE13), we suggested there may be strategic connectivity opportunities to link up the green infrastructure provided as part of this Application and Isley Woodhouse.</p>	<p>The Applicants note the response.</p>
<p>5.0.24</p> <p>Badger setts</p> <p>Please can the applicants clarify whether the mitigation hierarchy has been followed in relation to the loss of any badger setts, in accordance with paragraph 5.48 of the NNNPS? For example, have opportunities been taken to minimise the footprint of the development to avoid any badger setts currently identified for closure, and could the illustrative layout be reduced in extent during detailed design. Is there sufficient evidence demonstrating that such avoidance is not possible, and is NE and NWLDC satisfied with the applicants' approach in this regard? The applicants should submit their answer to this question in a confidential report. The ExP would ask that the applicants send a copy of the</p>	<p>Natural England have no comments at this time but would welcome the opportunity to review the requested report on this matter.</p>	<p>The Applicants note the response.</p>

<p>confidential report direct to NE and NWLDC for their consideration.</p>		
<p>5.0.32</p> <p>Ancient woodland and ancient/ veteran trees</p> <p>In its RR [RR-023D] at paragraph 1.2.21, NE states that there would be no loss of ancient woodland or ancient/ veteran trees. However, table 9.13 of chapter 9 of the ES [AS-039] notes “Nine veteran trees defined under the Biodiversity Gain regulations are to be lost” and table 9.15 notes one retained on site and 7 off-site veteran trees are “modelled to be exposed to increased levels of airborne pollutants exceeding 1% PC of critical levels” in respect of the DCO works. Appendix B of the Arboricultural Assessment (appendix 10C of the main ES chapter [APP-123]) sets out the rationale for designation, and the main ES chapter sets out the reasoning for removal where this is proposed. NE is asked to review these documents and update the ExP with its position</p>	<p>NE have no specific comments on ancient / veteran trees outside of designated sites. We would direct the ExP to our standing advice to support decision making: Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK.</p>	<p>The Applicants note the response.</p>
<p>5.1.1</p> <p>Whether Appropriate Assessment Required</p> <p>In paragraph 1.2.4 of NE’s RR [RR-023D] it is indicated that the proposed development is “unlikely to result in adverse effects on the integrity of the River Mease Special Area of Conservation , subject always to any appropriate mitigation/ compensation outlined in the application documents being secured adequately”. However, the applicants’ Shadow Habitats Regulations Assessment [APP-115] concludes (paragraph 5.1) that “there are no viable pathways by which the project could give rise to Likely Significant Effects (LSE) on the SAC</p>	<p>NE agree with the shadow HRA, that there are no pathways by which an LSE could occur, meaning there is no requirement for an Appropriate Assessment. This is due to the development lying outside the catchment of the River Mease SAC. As such there is no hydrological connection to the SAC or any of its designated features.</p>	<p>The Applicants note the response and are continuing to engage with Natural England with a view to agreeing a SoCG (a draft SoCG was submitted at Deadline 1 [REP1-078] and a revised draft has been submitted at Deadline 2).</p>

<p>or its qualifying features”. Considering regulation 63(1) of the Conservation of Habitats and Species Regulations 2017, could NE please confirm:</p> <p>(a) whether NE considers there is potential for likely significant effects (LSE) to occur on a European site; or</p> <p>(b) if NE therefore agrees with the applicant that there are no pathways by which an LSE could occur, meaning there is no requirement for an Appropriate Assessment?</p> <p>In giving its response, NE is requested to explain its reasoning.</p>		
<p>8.1.4</p> <p>Article 38 – Felling or lopping of trees and removal of hedgerows</p> <p>Could the identified parties please comment on the distance from the Order limits of 25 metres 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 will need to be fully justified both in response to this question and in the EM.</p> <p>Could NWLDC confirm whether presently there are any trees protected by tree preservation orders within 25m of the Order limits? Should this situation change, could NWLDC ensure this information is submitted into the examination.</p> <p>Is any party 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,</p>	<p>NE have no specific comments on hedgerows or ancient / veteran trees outside of designated sites. We would direct the ExP to our standing advice, which includes buffer distances to support decision making: Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK.</p>	<p>The Applicants note the response.</p>

<p>along with the reasoning behind why the party holds that view.</p>		
<p>8.3.1 Consultee in requirements</p> <p>In various requirements there is a requirement for consultation with a statutory body prior to the decision maker deciding whether to approve details pursuant to requirements. Could all statutory parties review the requirements and confirm whether consider that the current arrangements are appropriate. Should they wish to amend this, could they please set out where such a change should be made, and if requesting additional consultation explain why it is considered necessary.</p>	<p>NE would draw the ExP attention to our Relevant Representations (RR-023D) Part III where we make specific comments on the requirements and what is satisfactory and what should be amended to ensure mitigation and enhancement is secured.</p> <p>We would welcome further consultation on discharges of these requirements where there are direct impacts to designated sites, opportunities for nature recovery, people-nature connections and soils & agricultural land including:</p> <ul style="list-style-type: none"> • Relevant pCEMPs • LEMP • SMP 	<p>The Applicants the response and refers to their response to Natural England’s relevant representations submitted at Deadline 1 [REP1-051D].</p>
<p>8.3.2 Requirement 1</p> <p>The parties are asked for their comments as to whether the definition of “ecological mitigation works” is sufficiently and precisely defined?</p>	<p>As noted in our response to Q5.0.12, in the DCO and MCO ecological mitigation works for protected species are noted to include creation of artificial badger setts only. This should be expanded to include all conditions on the granting of the individual species licences.</p> <p>All mitigation requested by NE to mitigate impacts to designated sites is specified elsewhere in the DCO and MCO, such as the CEMP. See our response to Q8.3.1 for our comments on these.</p>	<p>The Applicants note the response and are continuing to engage with Natural England with a view to agreeing a SoCG (a draft SoCG was submitted at Deadline 1 [REP1-078] and a revised draft has been submitted at Deadline 2).</p>

APPENDIX 6

RESPONSE TO SUBMISSIONS MADE BY HISTORIC ENGLAND

Responses to ExQ1		
ExQ	Interested Party's Response	Applicants' Response
<p>11.0.1</p> <p>Heritage assessment - intervisibility</p> <p>The assessment of significance in section 4 of appendix 12A [AS-053] excludes effects on the settings of various designated and non-designated heritage assets on that basis that there is no current intervisibility between the site and the various assets.</p> <p>Considering the history of the area, as demonstrated in the various maps submitted, and historic and contextual connections, could HE and NWLDC</p> <ul style="list-style-type: none"> • confirm whether they agree with the applicants' assessment in this regard • whether any different conclusion arises in respect of the MCO application, having regard to the increase in permitted crane height • if either HE or NWLDC does not agree, identify the heritage asset(s) (or categories of assets) for which setting 	<p>With specific regard to the increase in crane height, given the existing cranes at approximately 20m in height, we are not of the position that an increase in height of 4m would present substantially different conclusions.</p> <p>Upon review of the assessment available, there are assets we would draw specific attention to for discussion of impacts. We note the submitted Built Heritage Statement states the 'Built Heritage Statement concludes that the development of the EMG2 Works will likely result in a medium level of less than substantial harm to the significance of the Grade II* listed Church of St Michael and All Angels and a low level of less than substantial harm to the significance of Diseworth Conservation Area'.</p> <p>We would agree that the closely grained nature of Diseworth conservation area does provide some screening in terms of the assets within it, however, we consider that the holistic experience of the approach from north east on Hynam's Lane to the Conservation Area and its contribution to the significance and character of the Conservation Area should be considered further,</p>	<p>Given the Applicants' own assessment that the 'legibility is mainly signified by the landmark presence of the Church spire'. The impact to the conservation area and the church of St Michael and All Angels should be considered holistically in terms of kinetic experience and their group value. These assets are considered for group value and kinetically in the assessment of significance and setting. It is understood that Historic England ultimately agrees with the Applicants' assessment of impacts.</p> <p>Regarding St Mary and Hardulph Church, the Applicants have submitted that the proposal would result in 'no meaningful impact on the asset's significance'. However, the experience, through introduction of competition in the skyline would result in harm to significance. The elevated nature of the site, and the long ranging views that are experienced from atop the landscape promontory would be affected. The level of harm may be towards the lower level of less than substantial harm, however it would nevertheless result in harm. The presence of modern infrastructure in the modern landscape does not detract from the level of harm that the</p>

<p>effects should be reconsidered, including where setting contribution is derived from historic/ contextual connections beyond intervisibility</p>	<p>further to assessment to our guidance (GPA3) when considering design and mitigation. This should also consider the Church of St Michael and All Angels in the centre of Diseworth, given the applicants own assessment that the 'legibility is mainly signified by the landmark presence of the Church spire'. Impact to the conservation area and the church of St Michael and All Angels should be considered holistically in terms of kinetic experience and their group value.</p> <p>Regarding St Mary and Hardulph church, the applicant states that the proposal would result in 'no meaningful impact on the asset's significance'. However, we suggest that the experience, through introduction of competition in the skyline would result in harm to significance. The elevated nature of the site, and the long ranging views that are experienced from atop the landscape promontory would be affected. The level of harm may be towards the lower level of less than substantial harm, however it would nevertheless result in harm. The presence of modern infrastructure in the modern landscape does not detract from the level of harm that the asset would experience through further change, and thus should be assessed proportionately.</p> <p>Overall, we would agree with the assessment of less than substantial harm to both the Diseworth conservation area and St Michael and All Angels Church, but suggest that harm to St Mary and Hardulph church should also be considered further. Where harm falls within the spectrum of less than substantial harm to the identified</p>	<p>asset would experience through further change and thus should be assessed proportionately.</p> <p>The proposed EMG2 Main Site would not harm the church's significance. At approximately 5.1 km to the west and separated by intervening built form, landform and vegetation, the proposal would not compete with or diminish the church's highly prominent hill top silhouette or interrupt the designed and associative views that embody its heritage interest. The site occupies a negligible portion of an extensive rural setting—primarily open fields, woodland belts and intermittent settlements—and therefore makes no meaningful contribution to the key attributes that convey the asset's significance. In line with Historic England's GPA3 guidance, mere visibility from a heritage asset does not amount to harm: only developments that compete with or dominate towers/spires (for example through comparable vertical scale or by intruding into identified designed views) are likely to affect the asset's heritage values. EMG2 is distant in plan, limited in extent and of a scale and form unlikely to compete with the church; any perceptible relationship would therefore be a remote landscape context effect rather than a loss or diminution of historic significance.</p>
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	designated assets' significance, paragraph 215 of the NPPF states harm should be weighed against the public benefits of the proposal.	
<p>11.0.3</p> <p>Heritage assessment</p> <p>Does either HE or NWLDC consider that any of the archaeological features identified within the EMG2 site are of equivalent significance to scheduled monuments so that they should be treated as if they were designated heritage assets. If so, could you please identify the feature(s)/ area(s) and explain your reasoning.</p>	<p>We would not be of the opinion that there are demonstrably archaeological features of equivalent significance to scheduled monuments present within the site. While our advice often refers to footnote 75 of the National Planning Policy Framework, in this instance, we are not aware of any archaeological remains that are of equal significance and should be treated as such. Historic England has referred the applicant to expertise of the County Council Archaeological Officer all below ground archaeological matter and has not raised its own issues in this respect. Historic England have not commented on the content of various environmental management plans (CEMP etc) but these will need to be aligned to address those setting issues currently in discussion and address also such archaeological matters as the County Archaeological officer may have separately raised.</p>	<p>The Applicants note Historic England's agreement that there are no below-ground archaeological remains within the site of potential national significance.</p>
<p>11.0.6</p> <p>Langley Priory</p> <p>Appendix 12A paragraph 4.4 [AS-053] states that the Site does not form any part of the setting of Langley Priory, whilst acknowledging that parts of the Site had an ownership association with the former Priory up to the early twentieth century.</p>	<p>Whilst there was a historic association between the site and Langley Priory, the site would once have comprised a large part of the monastic landscape associated with St Mary and St Hardulph Priory Church, Breedon on the Hill (GI listed building and associated hill fort scheduled monument), and Langley Priory (GI* listed building).</p>	<p>The Applicants note Historic England's disagreement with the submitted assessment regarding potential harm to the Grade II* Langley Priory on the basis that Historic England considers the development to have some degree of impact to the setting of the asset, although such harm would be of a negligible level. The Applicants are continuing to engage with Historic England to agree a SoCG (a draft SoCG was submitted at Deadline 1 [REP1-079]).</p>

<p>HE's guidance, referred to in paragraph 2.30 [AS-053], notes that "historical and cultural associations may also form part of the asset's setting, which can inform or enhance the significance of a heritage asset".</p> <p>In its RR Prologis UK 121 [RR-028D] states that the Heritage Statement confirms the application site comprises part of the setting of the Grade II* listed Langley Priory and attached railings.</p> <p>Do HE and NWLDC agree with the applicants' assessment that the proposed development would not affect the significance of Langley Priory as a designated heritage asset (Grade II*)?</p> <p>If either party disagrees with this assessment, could it please explain why it holds that view and how and to what extent would the significance of the asset be affected.</p>	<p>Whilst we don't agree with the applicant's conclusion that there is no setting impact, we acknowledge the wider landscape has changed over time. The proposal site makes a very limited contribution to the significance of Langley Priory. In this respect while the proposed development would cause harm to the significance Langley Priory derives from its setting, this would be a negligible level of less than substantial harm.</p>	
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APPENDIX 7

RESPONSE TO SUBMISSIONS MADE BY THE FORESTRY COMMISSION

Responses to ExQ1		
ExQ	Interested Party's Response	Applicants' Response
<p>5.0.4</p> <p>Please can the Forestry Commission, NE and NWLDC clarify whether they are satisfied with the applicant's assessment of veteran trees, including their role as irreplaceable habitats, as set out in the LEMP [APP-117], and whether there is compliance with paragraph 5.63 of the NNNPS?</p>	<p>We have discussed the veteran trees with the applicant and are satisfied that although they are veteran trees, they are in poor condition and would most likely require removal in the medium term whether the development were to occur or not.</p> <p>The applicant will be retaining the dead wood structures on site where they will continue to be of biodiversity value, alongside significant new planting proposals.</p> <p>Paragraph 5.63 of the National Networks National Policy Statement states:</p> <p>“The Secretary of State should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland and ancient and veteran trees unless there are wholly exceptional reasons (for example, where the public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists.”</p> <p>The Forestry Commission is not responsible for determining whether a proposal meets the requirement for wholly exceptional reasons. We are however guided by footnote 70 attached to the National Planning Policy Framework Paragraph 193 (c)</p> <p>Para 193 (c) of the NPPF states:</p> <p>“development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁷⁰ and a suitable compensation strategy exists; and a suitable compensation strategy exists”</p>	<p>The Applicants note the Forestry Commission's response.</p> <p>The Applicants have agreed a SoCG with the Forestry Commission, and this was submitted at Deadline 1 [REP1-080].</p>

	<p>Footnote 70 goes on to state what could be considered exceptional reasons:</p> <p>“For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.”</p>	
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APPENDIX 8

RESPONSE TO SUBMISSIONS MADE BY EAST MIDLANDS FREEPORT

Responses to ExQ1		
ExQ	Interested Party's Response	Applicants' Response
<p>15.0.5</p> <p>East Midlands Freeport Designation</p> <p>Could East Midlands Freeport please provide the ExP with any documentation about the geographic designation of the East Midlands Freeport. This is not a question about the policy of freeports, rather is to how the extent of the Freeport was arrived at, what, if any, assessment of any environmental factors was undertaken, and whether any other extents were considered and rejected. If so, why were they rejected. Can we please be provided with all documents setting out the decision-making processes (please also see separate Rule 17 letter to HM Treasury and the Ministry of Housing, Communities and Local Government).</p>	<p>The geographic extent of East Midlands Freeport was determined through HM Government's national Freeport programme, as set out in the Freeports Bidding Prospectus (attached) which established a three-stage competitive selection and approval process for Freeports in England.</p> <p>1. Initial Bid Stage (2020–21)</p> <p>Local public-private partnerships were invited to submit bids demonstrating their ability to deliver the Government's Freeport objectives, including regeneration, trade growth, and innovation. East Midlands Freeport's (EMF) bid (attached) was submitted by a consortium of public and private sector organisations that included Manchester Airport Group (MAG), Leicestershire County Council (plus each Local Authority responsible for planning and business rates collection that the proposed Freeport sites sit) and SEGRO. The partnership supported the ongoing work, coordinated initially by Vivid Economics and subsequently by Ernst & Young (EY)</p> <p>2. Business Case Development (2021–2022)</p> <p>The original East Midlands Freeport Bid successfully passed the competitive bid assessment stage and was shortlisted in March 2021. Government then instructed all shortlisted Freeports to</p>	<p>The Applicants note the response.</p>

	<p>proceed to the Business Case development phase, in line with HM Treasury's Green Book.</p> <p>During the business case development stage, Government sought additional assurance that the proposed East Midlands Airport and Gateway Industrial Cluster (EMAGIC) tax site would deliver sufficient economic additionality, meaning that it would attract genuinely new investment rather than displacing existing activity.</p> <p>As part of this normal and expected iterative process, the partnership and Government considered an expanded boundary to the south of the A453. The inclusion of this land reflected its proximity to East Midlands Airport and its suitability for time critical advanced logistics, advanced manufacturing and innovation activity, all of which align with the objectives of the national Freeports programme.</p> <p>The final geographic extent of the Freeport, including the EMAGIC tax site boundary was approved by regional partners including those who now make up the EMF membership and by Government as part of the Full Business Case.</p> <p>3. Full Business Case (FBC) and Government Approval (2023)</p> <p>The Full Business Case (attached) was submitted in early 2022 and was formally approved by Government on 30 March 2023 (see attached Written Ministerial Statement HCWS691). As part of that approval, Government agreed the Freeport's final geographic extent, including the EMAGIC tax site boundary.</p> <p>Consideration of environmental factors</p> <p>At the Freeport designation stage, environmental matters were considered through the programme-level business case process rather than by commissioning standalone, site-specific</p>	
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	<p>environmental assessments for each proposed tax site. The Full Business Case (FBC) committed EMF to environmental compliance, including climate change risk assessments and equalities impact assessment requirements, and to applying appropriate environmental and sustainability assessments as projects come forward.</p> <p>No standalone site-specific environmental assessment was undertaken at the designation stage. Environmental considerations were instead addressed through the FBC and supporting work, including:</p> <ul style="list-style-type: none">• A regulatory compliance framework within the FBC, committing EMF to undertake Climate Change Risk Assessments for all material projects.• Flood risk assessments for each tax site geographic location (referenced at Annex W of the FBC), with the FBC confirming that each EMF tax site is supported by existing flood mitigation measures and has limited flood risk.• An Equalities Impact Assessment commitment included in the FBC's governance framework.• Transport modelling undertaken by Leicestershire County Council and AECOM to assess congestion impacts around M1 Junctions 23 and 24, with proposed mitigations; and a commitment in the FBC's Logic Model to monitor changing travel patterns and invest to improve connectivity across the region. <p>Planning Inspectorate requirements for Environmental Impact Assessment (EIA) would apply (where relevant) to individual planning applications brought forward post-designation, rather than to the Freeport designation itself.</p>	
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	<p>Accordingly, the designation of the Freeport boundary was informed by a balanced assessment of strategic, economic and environmental factors at programme level, with detailed, site-specific environmental assessment to be addressed through subsequent planning and consenting processes as development proposals come forward.</p> <p>Availability of information</p> <p>The approved Full Business Case, together with maps showing the designated Freeport and tax site extents, are publicly available via the East Midlands Freeport website and GOV.UK, respectively. EMF was incorporated as the delivery body following designation.</p> <p>We note that a Rule 17 request seeking further information on designation decisions has been issued separately to HM Treasury and the Ministry of Housing, Communities and Local Government.</p>	
<p>15.0.6</p> <p>East Midlands Freeport Advanced Manufacturing Floorspace</p> <p>Could East Midlands Freeport please explain the importance of delivering advanced manufacturing floorspace as part of the proposed development in meeting the freeport's objectives and whether the dDCO should include requirements to secure its delivery, rather than rely on market forces alone. If it does need to be secured, how should</p>	<p>EMF was set up to create high quality jobs and community benefit, and economic additionality was a core principle from the outset. This formed the basis on which tax site status (and all the benefits that incurs) was awarded by Government, after significant scrutiny Advanced manufacturing forms a core component of East Midlands Freeport's value proposition and was identified as priority sectors through the original Freeports bidding process and subsequent Full Business Case.</p> <p>The clustering of advanced manufacturing and logistics activity in proximity to the Midlands logistics corridor and East Midlands Airport is central to EMF's strategic proposition. offering businesses enhanced connectivity to national and international markets and supporting the EMF objectives.</p>	<p>The Applicants note the response.</p> <p>The Applicants will continue to engage with the Freeport with a view to securing the delivery of advanced manufacturing space at EMG2.</p>

advanced manufacturing be defined in the dDCO?

EMF sees future employment prospects in the Freeport to focus heavily on advanced manufacturing. The Freeport is anticipated to generate over 28,000 direct new jobs across a variety of sectors, with a particular focus on Advanced Logistics and Manufacturing, Renewable Energy Production, and Research and Development across the scientific and technology sectors. This will be a catalyst for sustainable and innovative growth in the region, addressing the existing skills shortages and empowering the East Midlands to be a key participant in the levelling up agenda.

As part of the FBC approved by Government, the tax sites' focus was defined by the SIC Codes (below).

Tax Site	Sector Grouping	SIC Code	SIC Code Name
East Midlands Gateway and Industrial Cluster (EMAGIC)	Advanced logistics and warehousing	43	Specialised construction activities
		51	Air transport
		52	Warehousing and support activities for transportation
		68	Real estate activities
		27	Manufacture of electrical equipment
	Advanced manufacturing of motor vehicles, innovative aircraft, and other electrical equipment	28	Manufacture of machinery and equipment
		29	Manufacture of motor vehicles, trailers, and semi-trailers
		30	Manufacture of other transport equipment

The fiscal incentives package available to target organisations within Freeport Tax site are the most comprehensive set available within the UK. The Freeport employs tests to ensure that occupier businesses operate within those sectors and offer a broader contribution to the local and national economy, consistent with Government guidance, including additional value through skills and innovation, and avoiding displacement. Final determinations on relief are then made by the relevant Billing Authority, taking account of EMF's analysis.

EMF recognise that advanced manufacturing continues to be a challenging market and will work with landowners and partners to support and encourage investment into these sectors. EMF notes that further clarity on how advanced manufacturing can and will be targeted would assist understanding of how the proposed development aligns with Freeport objectives. This could include

	<p>evidence from similar sites around the UK on how the scale and comprehensive approach underpins the potential for international investment additional to the UK economy.</p> <p>The Freeport executive team will continue to work site owners to ensure the discretionary incentives benefit occupiers in target sectors, so resisting any wider market influence.</p> <p>There is currently no requirement in the draft DCO for a minimum proportion or amount of floorspace for use for advanced manufacturing, though the planning statement [AS-018] confirms that up to 20% of the proposed floorspace of the EMG2 Works would comprise advanced manufacturing development (see footnote 3, page 18 of the planning statement). EMF consider there could be merit in considering ways to mandate sector delivery. As part of the discussions with the applicant, EMF will seek to find ways to secure that the proportion of advanced manufacturing space is at a level which meets its objectives. This may include exploring the question of whether the DCO could include a requirement for a minimum proportion of floorspace for that use or a requirement or agreement which provides for another mechanism including for example joint target marketing strategy whereby the Freeport plays an active role in securing those objectives. EMF will explore the detail with the applicant and seek to agree a position acceptable to all parties.</p>	
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APPENDIX 9

RESPONSE TO SUBMISSIONS MADE BY SEVERN TRENT WATER

Written representations		
No.	Matter	Applicants' Response
1.	<p>Any proposed building must be 5m clear of pressurised sewers, and 15m from any pumping station.</p> <p>Severn Trent do not allow building over of public sewers or water mains.</p>	<p>The Applicants note the response and confirm that they will engage with Severn Trent as appropriate regarding delivery of water infrastructure to facilitate EMG2.</p>
2.	<p>Note the following protective strips where no building will be allowed:</p> <p>SEWERS</p> <p>For sewers up to and including 225mm diameter Severn Trent requires a protective strip of 6m placed centrally over the pipe.</p> <p>For sewers over 225mm diameter but less than 1000mm Severn Trent requires a protective strip of 10m placed centrally over the pipe.</p> <p>For sewers greater than 1000mm Severn Trent requires a protective strip of 15m placed centrally over the pipe.</p> <p>For Pumping Stations Severn Trent requires 15m protective strip from the edge of the compound.</p>	

	<p>WATER</p> <p>For water mains less than 300mm diameter Severn Trent requires a protective strip of 6m placed centrally over the pipe.</p> <p>For water mains 300mm diameter and above Severn Trent requires a protective strip of 12m placed centrally over the pipe.</p>	
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APPENDIX 10

RESPONSE TO SUBMISSIONS MADE BY LONG WHATTON AND DISEWORTH PARISH COUNCIL

Responses to ExQ1		
ExQ	Interested Party's Response	Applicants' Response
<p>1.1.1</p> <p>Development plan</p> <p>Could the identified interested parties please provide copies of the development plan for which they are responsible along with any associated policy maps.</p> <p>Where a development plan is under review, could the identified interested party, also provide information as to the stage of review that the plan has reached, along with a timetable through to adoption/ making. This should be updated throughout the examination should it change.</p> <p>Where a draft development plan document exists, please could a copy also be provided (along with any associated maps). Again, this should be updated throughout the examination.</p>	<p>The Long Whatton and Diseworth Neighbourhood Plan (as attached) is currently with the independent examiner.</p> <p>Preliminary questions have been answered and approval awaited prior to the final referendum.</p>	<p>The Applicants note the response.</p>
<p>1.4.2</p> <p>Community Park</p>	<p>It was with some disappointment that LWDPC noted that Diseworth was mentioned only three times during the three day hearing (11th to 13th March). The proposed for EMAGIC2 site being referred to as 'the land to the west of Finger Farm Roundabout' whereas it is the view of LWDPC that the site should be</p>	<p>The Applicants note the response. Their response to ExQ1.4.2 can be found at [REP1-054].</p>

<p>The ExP is seeking to understand how attractive the community park would be as an amenity. Therefore, can the applicants provide the following information:</p> <ul style="list-style-type: none"> • isophones (sound levels) across the whole of the park with the proposed development in operation based on the worst-case analysis assessed in the ES • the areas of the site where gradients would be greater than 8% (1 in 12) – contours across the whole area should be shown (this may need to be on a separate drawing if it would result in the drawing being too cluttered) – or which could only be accessed by travelling through such areas • whether the surface water storage areas would be fenced • the months and proportion of the year the surface water storage areas are unlikely to be accessible due to wetness, including boggy ground conditions • those areas where it would not be desirable for the public to visit for ecological and biodiversity reasons (that is, buffer zones), giving any temporal or other restrictions • what assessment has been undertaken of increased human activity in the proximity of the badger setts during the operational phase, and how has this been quantified? <p>This information should also be provided graphically on a plan of the community park. Where areas are identified, the area in square metres, should also be provided; a table setting out the different areas of the proposed park should be submitted.</p>	<p>referenced as 'the land immediately to the east and north east of Diseworth'. That said we note with interest the questions raised in Q1.4.2 by ExP and look forward to the response from the applicant.</p> <p>Should the proposed project be approved then a fully functioning Community Park is essential to the residents of Diseworth to compensate for the overall loss of amenity that would be caused should the project proceed. Satisfactory answers to the questions raised by ExP are therefore vitally important.</p>	
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<p>If the applicants wish to provide a commentary to this information they may do so.</p> <p>The applicants should prepare a separate confidential report for answers relating to badgers.</p> <p>The ExP would ask the applicants send a copy of the confidential report direct to NWLDC and NE for their consideration.</p>		
<p>1.4.3</p> <p>Community Park</p> <p>Is the size of the community park sufficient to create a meaningful buffer between the EMG2 main site and neighbouring residential development, whilst delivering the multitude of proposed functions (recreation, landscape and ecological mitigation etc.)? To this end, could the community park be made bigger, at the expense of industrial and logistics floorspace, if it was determined that its current size would place unworkable constraints on its intended functions?</p>	<p>LWDPC have been consistent through all stages of our discussions with all interested parties in that the proposed development is (a) in the wrong place, (2) it is too large and (3) too close to Diseworth. The distance between EMAGIC1 and the neighbouring villages (Lockington and Hemington) is double the distance in the EMAGIC 2 proposal between it and Diseworth. We therefore fully support the question raised by ExP regarding the size, shape and usefulness of the Community Park.</p>	<p>The Applicants note the response.</p>
<p>12.0.4</p> <p>Landscape report associated with neighbourhood plan</p> <p>ES chapter 10 [AS-041] refers at paragraphs 10.5.44 - 10.5.46 to a document titled "Landscape Sensitivity Report: Diseworth and Long Whatton (Diseworth and Long Whatton Neighbourhood Plan Steering Group) (January 2024)". In its RR Protect Diseworth [RR-025D] refers to a "Landscape and Sensitivity Report" authored by Influence</p>	<p>There are effectively two landscape studies. NWLDC prepared Landscape Sensitivity Studies (Gillespies) in 2019 and 2021 to help inform decisions about which sites to allocate for housing and employment. In 2023, LWDPC commissioned its own study (Influence) which builds on the previous studies to:</p> <ul style="list-style-type: none"> • Understand in more detail the characteristics of the landscape surrounding Long Whatton and Diseworth; • Review and refine the assessment of sensitivity where appropriate; 	<p>The Applicants note the response.</p>

<p>Design, dated 30 January 2024 and NWLDC [RR-010D] refers to its own study commissioned in 2023.</p> <p>Could IPs and the applicant please confirm whether these references relate to the same report or different reports and liaise between themselves and submit one copy of the relevant document(s) into the examination.</p>	<ul style="list-style-type: none"> • Identify important views and features which encapsulate the landscape and visual character; and • Inform the policies of the Long Whatton and Diseworth Neighbourhood Plan. <p>The Influence Study is in two parts (as attached).</p>	
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APPENDIX 11

RESPONSE TO SUBMISSIONS MADE BY PROTECT DISEWORTH

Post hearing submissions		
No.	Matter	Applicants' Response
N/A	<p>ISH1 – Legal basis for determination</p> <ul style="list-style-type: none"> • The planning statement seeks to assess the scheme as a whole in terms of the NPSNN, NPPF and local plan policy. • Section 104 of PA2008 makes it clear that the SoS must have regard to a national policy statement that has effect in relation to the development of the description to which the application relates. • In simple terms, irrespective of whether the EMG2 works are associated with highways works, the EMG2 works are a commercial development, and in this respect, they are not by themselves part of the national network/do not directly result in any improvements. • In the circumstances, PD considers that Section 105 of the PA2008 is engaged in relation to the EMG2 works (decisions where no national policy statement has effect.) • As such, PD consider that there is no relevant national policy statement in effect in relation to the EMG2 works and they consider as such that the NPSNN should be afforded no weight in relation to the EMG2 works, Subject to the comments above, PD cannot at this stage make any further 	<p>The Applicants note the response and refer to their post hearing submissions [REP1-052].</p>

	<p>contribution to the agenda item beyond emphasising the fact this application is grounded upon the Freeport (“EMF”) designation, a designation which appears to have led to the S35 decision in this matter. Additionally, NWLDC’s approach to the land (“EMP90” as defined in its updates to the Local Plan) is also an issue of considerable concern to PD.</p>	
N/A	<p>ISH1 – Interoperability</p> <p>ISH1 – Relationship between the applications for the DCO and that for the MCO</p> <p>Again, it is difficult for PD to make detailed submissions upon the agenda point at this stage. It surmises that the item is focussed upon the conflict between Prologis’ application to NWLDC and the DCO.</p> <p>PD is advised that a DCO normally includes powers that no incompatible planning permission can proceed in direct conflict with a ‘made’ DCO whereas article 42 of the draft DCO apparently offers an alternative approach. PD looks forward to considering the outcome of this discussion.</p> <p>As a subsidiary point, PD argues that EMF’s failure to resolve the competing applications should be borne in mind when considering the extent to which, if at all, its role in supporting wider economic generation is a relevant factor in this application.</p>	<p>The Applicants note the response and refer to their post hearing submissions [REP1-052].</p>
N/A	<p>ISH1 – Need and Alternatives</p> <p>a) Policy and Regulatory Need</p> <p>PD repeats its position that that there is no national basis of need in respect of the PA2008. The NPSNN does not apply to the EMG2 works and so Section 105 of the PA2008 is engaged.</p>	<p>The Applicants note the response and refer to their post hearing submissions [REP1-052].</p>

As a result, the relevant policy context for EMG2 is the NPPF and local plan, noting PD continues to challenge the inclusion of the “EMP90” in the Regulation 18 stage draft plan.

b) EIA Alternatives

In Chapter 4 of the ES, the Applicant states:

“Given the strategic context set out in Section 4.2 of this Chapter, it is clear that only a site closely related to East Midlands Airport and EMG1 would genuinely offer a reasonable alternative. The Freeport designation of the EMG2 Main Site, limits the sites that can be considered to provide a realistic alternative.”

PD’s position is:

- Based on the above, the Applicant’s assessment of alternatives, is driven by commercial suitability rather than environmental considerations.
- Alternatives should be guided by seeking to consider whether there are other sites that may have less significant environmental effects.
- Whilst alternative sites in Kegworth consider flood risks constraints, the consideration of alternatives does little to consider other environmental topics such as ecology, landscape, noise, air quality etc.

As such the consideration of alternatives that avoid sensitive residential receptors (Diseworth) is extremely limited and subject to challenge.

c) Freeport dependence

PD refers to its RRs section headed “East Midlands Freeport and other Economic Arguments” (p4).

As Segro sets out (see above,) the designation of this site is used as a fundamental justification for this application and indeed that of its competitor, Prologis.

After the initial Freeport submission had been rejected in late 2021, there was a scramble to find a further site. In a meeting with PD in April 2022, EMF’s chair, whilst refusing to give detail, told PD that there had been a need for “additionality” after that refusal.

The lack of transparency/obfuscation relating to the incorporation of this site continues. Yet another Freedom of Information request (FOI2025/35921,) this time to MHCLG made in December 2025, focussed on this exact issue. Whilst, the Department has confirmed that it holds the relevant information, it has yet to be answered as it has twice claimed it requires further time to consider the public interest.

There was no subsequent local consultation, or at least no consultation that has been disclosed despite detailed requests.

This approach should be contrasted with the view expressed by James Arnold, strategic director of NWLDC. In an email dated as early as 4 December 2020 to the local LEP (“D2N2,”) which was at the time coordinating the Freeport bid) he said:
“Essentially, the identification of potential sites has to be seen to go through due process if sites are to have any credibility and planning legitimacy. Finally, if such sites are not already identified for development in the council’s local plan, we as officers do not have the authority from our elected members to put forward site, irrespective of landowner support and **so there**

would be no planning legitimacy to any sites identified.”
(PD’s emphasis) (Copy attached at “PD1”).

Self-evidently, this was 12 months prior to the incorporation of the subject site into EMF, and years prior to the EMP90 site appearing in any consultation documents for the purpose of local planning.

It is in these circumstances that the Applicant, relying upon the designation, appears to have made few, if any, attempts to identify alternative sites for its scheme, a scheme which on its own admission, is largely founded upon displacement of existing jobs, rather than creation of new, a fundamental justification for EMF’s existence.

Furthermore, to the extent relevant at this stage, PD points to the issue of job creation remaining a fundamental justification for EMF’s existence. This site is focused upon nothing more than B8 “sheds” (“strategic logistics” in EMF’s and Segro’s language.) Evidence exists to demonstrate that owners/occupiers of such properties throughout Europe are reducing reliance on human labour, making the case for economic “need” even more questionable.

No due process took place, and no planning legitimacy exists. In PD’s view, this amounts to a fundamental legal flaw in the Application.

d) Proximity to EMA, the rail terminal and highways works.

PD specifically reserves its position in relation to these matters pending the Applicant’s answers to the issues raised by the Exp.

However, noting the final bullet point (“consequences of not providing the highway works if only the Prologis and EMA

	application was delivered,") Prologis' representative has commented directly to PD that it "only has an obligation to consume its own smoke" in this context. The consequences are obvious.	
Responses to ExQ1		
ExQ	Interested Party's Response	Applicants' Response
<p>1.1.1</p> <p>Development plan</p> <p>Could the identified interested parties please provide copies of the development plan for which they are responsible along with any associated policy maps.</p> <p>Where a development plan is under review, could the identified interested party, also provide information as to the stage of review that the plan has reached, along with a timetable through to adoption/ making. This should be updated throughout the examination should it change.</p> <p>Where a draft development plan document exists, please could a copy also be provided (along with any associated maps). Again, this should be updated throughout the examination.</p>	<p>In addition to the development plan, PD notes that NWLDC (working with the LPAs of South Derbyshire and Rushcliffe Borough Council) have published for consultation a Draft SPD on the Freeport. east-midlands-freeport-strategic-infrastructure-and-contributions-spd-consultation-draft.pdf As such, whilst it is currently subject to consultation, upon its adoption, it would become a relevant 'material consideration' The draft SPD includes a number of assumptions around both strategic infrastructure and site specific infrastructure, including funding mechanisms, to support the development of the EMG2 site. PD consider the Applicant and NWLDC should be invited to comment on how the DCO scheme will deliver against these requirements deemed necessary by the draft SPD. This is particularly important as a 'Framework' Section 106 Agreement is defined within the draft SPD as the means to which financial contributions towards the necessary infrastructure will be secured, but the ExP will be aware that a S106 cannot be enshrined within DCO and must be subject to separate agreement between an Applicant and the LPA.</p>	<p>The Applicants note the response.</p>
1.2.1	PD note that the current development plan for NWLDC is the Northwest Leicestershire Local Plan,	The Applicants note Protect Diseworth's analysis of the relative weight and relevance of

<p>Planning Statement</p> <p>In paragraphs 4.48 and 6.6 of the Planning Statement [AS-018] the applicants set out the effect of paragraph 11 of the Framework. However, it is not clear whether the applicants consider:</p> <ul style="list-style-type: none"> - the proposed development accords with an up-to-date development plan. - the so-called 'tilted balance' should apply to this proposed development, or - any other position. 	<p>adopted in 2017. As a document for guiding strategic growth, it is nearly 10 years old, PD consider that it does little to anticipate the significance of the growth now proposed as part of the DCO application(s). PD consider it should be afforded limited weight in this respect. PD also note that the emerging plan is currently being prepared and the proposed draft allocation of part of the DCO site is a contested matter. The emerging local plan still has some way to go, and the evidence has not yet been tested and scrutinised at an Examination in Public (EIP). Accordingly, PD also consider the emerging local plan should be afforded no weight as a material consideration in the DCO application, based on its current status and on the basis that the examination of the DCO will be complete by the time the EIP commences.</p> <p>PD note that the current 'tilted balance' as contained within the current version of the NPPF as Paragraph 11 (and the associated footnotes) typically relates to housing and not commercial development. Whilst the Applicant refers to the consultation draft NPPF, which includes a new 'tilted balance' for assessing developments outside of settlements that document is not current policy and it is unclear if and when a revised version of the NPPF will be published and to what extent it will reflect the consultation draft, once consultation comments have been taken into account. As such, PD consider it can be afforded no weight at this stage.</p>	<p>the emerging new NWLDC Local Plan. The Applicants accept that the emerging Local Plan is currently at an early stage in its preparation with no weight. However, the evidence base is being prepared and being published, and alongside the regular items being taken through the decision-making processes at NWLDC, do help give a clear indication of the 'direction of travel' of emerging policy. The Applicants note the views of NWLDC as local planning authority as set out in their Local Impact Report [REP1-103 to REP1-105] regarding the weight to be attached to the emerging Local Plan.</p> <p>The Applicants disagree with Protect Diseworth's view that the emerging Local Plan and evidence base are not capable of attracting more weight during the period of the EMG2 examination and determination process.</p> <p>The Applicants' view regarding new and emerging policies remains as set out in the submitted Planning Statement [AS-018].</p>
<p>1.2.10</p> <p>Construction working hours</p>	<p>Particularly given the proximity of the site to Diseworth and the articulated issues in relation to noise, PD argues that there should be no Saturday</p>	<p>The Applicants note the response and refer to its response to the same question [REP1-054].</p>

<p>Paragraph 3.2.54 of chapter 3 of the ES [AS-025] states that hours of work on Saturdays would be 07:00 to 16:00. Please justify these working hours with reference to any relevant guidance and clarify whether there is any deviation from established standards.</p>	<p>working at all. In any event, PD notes that it would be unusual to have working hours that start so early on a Saturday and finish later in the afternoon. This would compound the construction-related impacts to the local community beyond the normal working week. PD understands that it would typically be the case (if Saturday working was deemed necessary and justified) such hours would typically be 8am – 1pm, so as to protect the community. PD suggest that the Environmental Health Officer (EHO) at NWLDC also be asked to comment on this issue.</p>	
<p>1.2.11</p> <p>Community Investment Plan and fund</p> <p>Paragraph 3.4.16 of chapter 3 of the ES [AS-025] states SEGRO is committed to a community investment plan. However, this is not secured in the dDCO and there is no certainty about its delivery. Therefore, should the employment scheme provisions in the dDCO be amended to codify and secure the objectives of a community investment plan?</p> <p>Castle Donington Parish Council [RR-047M] refer to a community fund associated with EMG1. Please can the applicants clarify to what extent the community investment plan for EMG2 would include a community fund?</p>	<p>On the evidence currently available and in the absence of the community investment plan being secured with the dDCO, the Applicant cannot be compelled to deliver such an initiative. If it remains that there is no formal trigger, PD considers no weight should be given to it in the decision-making process, as it would be a voluntary obligation by the Applicant only and such an offer could be withdrawn at any time.</p>	<p>The Applicants response to ExQ1.2.11 can be found at [REP1-054].</p>

<p>1.4.2</p> <p>Community Park</p> <p>The ExP is seeking to understand how attractive the community park would be as an amenity. Therefore, can the applicants provide the following information:</p> <ul style="list-style-type: none"> • isophones (sound levels) across the whole of the park with the proposed development in operation based on the worst-case analysis assessed in the ES • the areas of the site where gradients would be greater than 8% (1 in 12) – contours across the whole area should be shown (this may need to be on a separate drawing if it would result in the drawing being too cluttered) – or which could only be accessed by travelling through such areas • whether the surface water storage areas would be fenced • the months and proportion of the year the surface water storage areas are unlikely to be accessible due to wetness, including boggy ground conditions • those areas where it would not be desirable for the public to visit for ecological and biodiversity reasons (that is, buffer zones), giving any temporal or other restrictions 	<p>PD welcomes the fact that there are a number of questions from the ExP on the community park as many of these coincide with its own areas of concern to PD and/or require clarification.</p> <p>Whilst PD cautiously welcomes the concept of a buffer area that provides separation from the development envelope, it seems likely that the concept of a community park stems from the Applicant's need for essential mitigation and that the area will form a critical part of flood/water control measures and to that extent is driven by commercial need rather than altruism. This is evident from the domination of wet grassland and other ecological features across the site that will likely place active constraint on usage. If there are unresolved questions regarding noise intrusion, then the tranquility value of the site is also called into question. Nevertheless, PD confirms that irrespective of its intention, the community park serves as an important buffer area, free of development and in that regard alone, it serves a function.</p>	<p>The Applicants note the response.</p>
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<ul style="list-style-type: none"> • what assessment has been undertaken of increased human activity in the proximity of the badger setts during the operational phase, and how has this been quantified? <p>This information should also be provided graphically on a plan of the community park. Where areas are identified, the area in square metres, should also be provided; a table setting out the different areas of the proposed park should be submitted. If the applicants wish to provide a commentary to this information they may do so.</p> <p>The applicants should prepare a separate confidential report for answers relating to badgers. The ExP would ask the applicants send a copy of the confidential report direct to NWLDC and NE for their consideration.</p>		
<p>1.4.3</p> <p>Community Park</p> <p>Is the size of the community park sufficient to create a meaningful buffer between the EMG2 main site and neighbouring residential development, whilst delivering the multitude of proposed functions (recreation, landscape and ecological mitigation</p>	<p>Whilst maintaining its fundamental “in principle” objection to the proposed development, as above, PD welcomes any increased separation between the development envelope areas and Diseworth. However, PD notes that the park area trespasses over the boundary of the “EMP90” land and that any development-linked construction should be within that boundary at the absolute minimum and, as noted above, there are a number of points that require further clarification so that it can be</p>	<p>The Applicants note Protect Diseworth’s position overall but welcomes these comments regarding the role of the proposed Community Park, and the recognition that it serves both as part of the mitigation for EMG2, but also that it would in its own right represent a useable facility and asset for the community.</p>

<p>etc.)? To this end, could the community park be made bigger, at the expense of industrial and logistics floorspace, if it was determined that its current size would place unworkable constraints on its intended functions? The ExP also invites comments from NWLDC on this matter.</p>	<p>actively used and if so, maintained and made available in perpetuity.</p>	
<p>2.0.5</p> <p>Good design</p> <ul style="list-style-type: none"> • Could the applicants please explain how good aesthetic design will be secured. In other words, in the definition of architecture, ‘firmness, commodity and delight’, how ‘delight’ is to be delivered? • Could the applicants explain whether there would be Design Review as part of the implementation phase. The answer to this question should relate to all elements of the proposed development, including buildings and road structures. If appropriate, could the applicants please ensure that this is secured. • The applicants explain in Table 3.2 and paragraph 3.2.10 in chapter 3 of the ES [AS-025] that the heights of the buildings may vary due to the potential for the finished floor level 	<p>PD assumes that the red dashed line are maximum heights, the actual photomontages should do so similarly. PD does not know why this has not been the case unless it is to “downplay” the effects of the development.</p> <p>PD requests the ExP direct that both the actual photo montages and the LVIA assessments reflect the worst-case scenario.</p>	<p>The Applicants would refer Protect Diseworth to Paragraph 20.2.36-10.2.38 of Chapter 10 [APP-120] for a summary of the assessment basis of the landscape and visual assessment.</p>

<p>to vary by plus or minus (+/-) 1.5 metres. Could the applicants explain how these different heights have been considered in respect of short distance views and the visual effects of the proposed development?</p>		
<p>3.0.2</p> <p>BMV agricultural land permanent loss and temporary effects</p> <p>ES chapter 15 [AS-061] identifies that the Order limits comprise BMV agricultural land, with areas of Grade 1, Grade 2, Subgrade 3a and 3b land reported in table 15.8, supported by the ALC survey in appendix 15A [APP-175]. Please provide a clear table which, for Grade 1, Grade 2, Subgrade 3a and Subgrade 3b land, distinguishes:</p> <p>a) the area of BMV land that would be permanently lost as a result of the authorised development</p> <p>b) the area of BMV land that would be temporarily affected during construction and is proposed to be restored to agricultural use, together with a brief explanation of the restoration approach and signposting to the Soil Resource Management Plan where relevant</p>	<p>PD submits its own analysis of lost BMV land alongside these comments - see separate note on BMV land in response to these Written Questions, raising methodological and other questions about the ES Chapter 15.</p>	<p>The Applicants refer to their response to this and other related ExQ [REP1-054]. Those responses include reference to their ongoing dialogue and comments awaited from Natural England on the submitted Soil Management Plan [APP-177]. This position is confirmed in the draft SoCG with Natural England submitted at Deadline 1 [REP1-078]. The Applicants will continue to liaise with Natural England in relation to this issue.</p>

<p>For each of (a) and (b), please identify where the relevant areas are shown on the certified plans and/ or ALC mapping (including the relevant Works Plan sheet(s) and Land Plan plot(s)).</p>		
<p>5.0.1</p> <p>Veteran tree mitigation</p> <p>The LEMP [APP-117] sets out veteran tree mitigation involving deadwood monoliths. In light of the RR [RR-003] submitted by NWLDC, please can the applicants confirm that such mitigation would not create a material risk of furthering the spread of ash dieback disease and how the prevention of such spread would be secured?</p>	<p>PD submits its own assessment of the ecological implications of this development alongside this document.</p>	<p>The Applicant has provided answers to the questions set out in Section 5 of the Written Questions.</p>
<p>12.0.4</p> <p>Landscape report associated with neighbourhood plan</p> <p>ES chapter 10 [AS-041] refers at paragraphs 10.5.44 - 10.5.46 to a document titled "Landscape Sensitivity Report: Diseworth and Long Whatton (Diseworth and Long Whatton Neighbourhood Plan Steering Group) (January 2024)". In its RR Protect Diseworth [RR-025D] refers to a "Landscape and Sensitivity Report"</p>	<p>PD understands that this issue has been/will be confirmed directly by LWDP.</p>	<p>The Applicants note the response.</p>

<p>authored by Influence Design, dated 30 January 2024 and NWLDC [RR-010D] refers to its own study commissioned in 2023.</p> <p>Could IPs and the applicant please confirm whether these references relate to the same report or different reports and liaise between themselves and submit one copy of the relevant document(s) into the examination.</p>		
<p>12.0.9</p> <p>Year 15 planting height</p> <p>ES chapter 10 table 10.2 [AS-041] records a scoping request to present assumptions for heights of mitigation planting as depicted in the visualisations, and the applicant response states that at Year 15 the maximum height of proposed tree and woodland planting is depicted at 7–9m.</p> <p>Please explain the basis for the Year 15 planting height assumption of 7–9m used in the photomontages/ visualisations; and whether the applicant considers the Year 15 visualisations to represent a realistic screening scenario for the “15 years post completion” residual LVIA conclusions.</p>	<p>Acknowledging that this question is directed to the applicants, this remains an issue of considerable concern to PD. In short, the landscape plans are not sufficiently detailed.</p> <p>In such a sensitive location, where impact on landscape character and the sensitivity of Diseworth in securing landscape mitigation are key issues, the information provided is unacceptably weak. There is no information about species, with woodland scrub and tree mix shown on the parameters plan and native woodland in LVIA 10.5.221 but no detail of the species (which appear to be conifers) on the visuals. There is no commitment to any planting height at “day 1”, species mixes etc.</p> <p>Generally, PD’s position is that there will be no reduction in visual effects over time. There is no ability to mitigate the introduction of the buildings as they will simply destroy landscape character and visual amenity and whilst planting may soften the</p>	<p>The Applicants note Protect Diseworth’s comments. The Applicants have provided an answer to Q12.0.9 which helps explain the rationale of the approach to assessment and to the assumed heights at year 15 [REP1-054].</p>

	exterior of the façades, PD still considers the impacts are “Major Adverse”.	
15.0.5 East Midlands Freeport Designation Could East Midlands Freeport please provide the ExP with any documentation about the geographic designation of the East Midlands Freeport. This is not a question about the policy of freeports, rather is to how the extent of the Freeport was arrived at, what, if any, assessment of any environmental factors was undertaken, and whether any other extents were considered and rejected. If so, why were they rejected. Can we please be provided with all documents setting out the decision-making processes (please also see separate Rule 17 letter to HM Treasury and the Ministry of Housing, Communities and Local Government).	PD welcomes this question (and the corresponding Rule 17 letter) and looks forward to transparency on this issue generally, and specifically to detail of the consideration given to Diseworth in any such assessment.	The Applicants note the response.
16.0.1 Consultation response The Consultation Report [APP-208] mentions that Protect Diseworth’s consultation response considered draft ES chapter 7. Table 7.3 in chapter 7 of the ES [AS-035] does not refer to this	PD obtained two reports as set out at the start of this question.	The Applicants note the response.

<p>stating that this deals with representations from statutory bodies. In its RR [RR-025D] Protect Diseworth indicates that two independent technical reviews were prepared (one submitted during statutory consultation, and one prepared in response to the submitted application).</p> <ul style="list-style-type: none"> • Could the applicants please confirm whether they received this representation as this is not clear in the Consultation Report [APP-208] or its appendices [APP-209 to APP-218] • If it was received, could the applicants please either signpost where the response has been made or set out a response to that submission highlighting any changes or other responses that were made in light of those comments <p>Please note the response to this question does not mean that the applicants should not respond to the RR as set out in the examination timetable.</p>		
<p>17.0.1 Community Park</p>	<p>Whilst PD recognizes that detailed discussion as to availability etc are more the provenance of LWDPC, understands that no such discussions have yet taken place.</p>	<p>The Applicants note the response and refer to its response to the same question [REP1-054].</p>

<p>Paragraphs 17.5.96 to 17.5.100 of the ES chapter 17 [AS-065] concludes that provision of the Community Park and associated PRow improvements will deliver long-term beneficial health effects through improved access to open space and opportunities for physical activity, leisure/ play and recreation.</p> <p>Paragraphs 3.2.16 and 3.2.17 of ES chapter 3 [AS-025] states that the Community Park will be available and open for use by the public before occupation of any authorised buildings and will be available in perpetuity.</p> <p>Please confirm that the deliverability and securing of the Community Park (including the meaning of “substantially” in requirement 28(1), any completion timescale, and how compliance will be demonstrated when requirement 28 is discharged) are addressed in the applicant’s response to the cross-cutting Community Park ExQ1.4.2 and ExQ1.4.3 and that the response to these should be taken as the applicant’s response for these matters for the purposes of ES chapter 17 [AS-065] paragraphs 17.5.96 to 17.5.100.</p>		
<p>21.0.1</p> <p>Foul drainage capacity</p>	<p>A further submission on the wider issue of flooding and water management is included with this filing.</p>	<p>The Applicants have provided answers to these written questions [REP1-054].</p>

<p>Several of the RRs comment on foul drainage capacity within the locality. Chapter 13 of the ES [AS-056] states that following any necessary upgrades, the impact of the proposed development on the existing network would be negligible. However, it is not clear to the ExP what the necessary upgrades would comprise, and whether they would be feasible in terms of timescale, cost and extent. Please can the applicants and STW provide more information in this context and evidence that such upgrades would be deliverable in principle, even if the full details are not yet available.</p>		
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APPENDIX 12

RESPONSE TO SUBMISSIONS MADE BY PROLOGIS UK LIMITED AND PROLOGIS UK 121 LIMITED

RESPONSE TO WRITTEN SUBMISSIONS

Executive Summary

Introduction

This document constitutes the Applicant's response to the written representations submitted on behalf of Prologis UK Limited and Prologis UK 121 Limited (Prologis WR) (**REP-257D and 267D**).

The headings and paragraph numbers in the full response directly correlate to those in the Prologis WR. The absence of a response to any particular paragraph does not signify acceptance of its contents.

To the extent that several references in the Prologis WR are intended to suggest that Prologis is better able/suited to develop than the Applicant, that is clearly not right. The Applicant is a FTSE 100 listed real estate investment trust and one of Europe's largest owners, managers and developers of modern warehouse and industrial space, with a portfolio of approximately 117 million square feet valued at over £20 billion.

Objection

Prologis has repeatedly complained that significant evidence was outstanding at the commencement of the Examination, alleging ongoing prejudice. The "significant evidence" that is alleged to be missing is:

Viability - the suggestion of insufficient information is disingenuous, discussions between the parties have been ongoing for many months, involving exchanges of information on costs, rents, yields, programme and financial appraisals. The Viability Appraisal submitted at Deadline 1 (**REP1-027D**) simply confirms matters already known to Prologis.

Socio-economic assessment - the Environmental Statement is not required to assess the effects of the DCO frustrating the separate Joint Application, as the requirement is to assess "likely significant effects" and frustration of the Joint Application by the failure to deliver the DCO is not a "likely" outcome.

Highways - A completed core PRTM 2019 assessment was included in the application, which was the relevant model at the time of undertaking the work. A sensitivity test using PRTM 2023 was subsequently submitted and corroborates the earlier assessment. It is not clear from the Prologis representations whether they have familiarised themselves with the modelled outputs and consequent assessment contained in the submitted application.

Negotiations - the Applicant refers to detailed chronologies of engagement already before the Examining Authority. the Applicants Response to Relevant Representations (**REP1- 051D Appendix 5 Paras 1.20 – 1.28 and Appendix 6 Section 2 page 7 and Annex 1 and Issue 8 page 27**). Annex 1 of the response to the Prologis RR sets out recent engagement with Prologis.

Section 35 Direction

The Applicant confirms its commitment to the inclusion of a carbon neutral campus, thereby addressing any concern regarding compliance with the Section 35 Direction.

The Applicant cautions against accepting at face value certain statements in the Prologis representations regarding the legal effect of Section 35.

Legal Basis for Determination of Applications

Prologis and the Applicant reach substantially the same conclusion regarding the split application of s.104 and s.105 PA 2008. There is a difference as to the relevance of the fact that the highway NSIP is required to mitigate the EMG2 impacts as well as having wider benefits. It is not considered relevant.

Deliverability and Programme

Prologis assert that its Joint Application represents a quicker and more deliverable alternative to the DCO scheme. However, there are ongoing uncertainties affecting the Joint Application, including the fact that highway modelling has not been completed, the resulting highway mitigation therefore being unknown, the need for further public consultation being uncertain, and no planning permission has been granted.

There is also the need for Prologis to deal with the parties who have the benefit of an overage and the beneficiary of mineral rights. Prologis's delivery programme is wholly aspirational rather than certain.

In contrast, the DCO route offers a statutory consenting timetable and avoids the need for further consents/agreements/orders such as reserved matters approvals, separate highway agreements, and footpath diversion orders. Prologis, in its own application for a s.35 Direction at Daventry International Rail Freight Terminal (DIRFT), acknowledge the benefit of the DCO process both in terms of certain timeline and CA powers. The Applicant supports its programme with reference to the more complex and much larger EMG1 development, which it has successfully delivered.

Compulsory Acquisition Powers

A central theme of the Prologis representations is the characterisation of compulsory acquisition (CA) powers as "draconian" and "inherently adversarial". CA powers are an integral feature of the DCO regime and apply equally to all projects, including commercial and business projects, precisely to overcome blockages to nationally significant development caused by an inability to reach agreement on land acquisition. Of the 46 plots in the Book of Reference subject to CA, the only objectors are Prologis and EMA, all other parties having been successfully engaged with. The Applicant has set out the history of its engagement with EMA demonstrating that it only pursued the Section 35 Direction after it became apparent that agreement could not be reached with EMA within any certain timescale. It also demonstrates extensive efforts to avoid CA by exploring alternatives. These efforts are ongoing.

Legal Tests for Compulsory Acquisition

The Applicant sets out the legal framework for CA, cautioning that the Prologis representations have a tendency to import additional words into the Planning Act 2008 and relevant guidance. No special or elevated test applies simply because the CA is sought over land owned by another private developer. Any form of immunity from CA for developers could have

unintended consequences, including encouraging parties to acquire interests in DCO-affected land specifically to frustrate delivery.

Foreign Direct Investment

Prologis has suggested that the grant of CA powers may pose a risk to foreign direct investment (FDI). There is no evidence of any risk to FDI. It is simply scaremongering. Prologis itself proceeded with its investment notwithstanding the known intention to submit a DCO.

Prologis has sought to distinguish itself as a conduit for FDI. The Applicant itself plays a significant role in attracting FDI, with approximately 90% of occupiers at EMG1 being foreign-owned and approximately 66% of its shareholder base is located outside the United Kingdom. The Applicant has approximately 120 occupiers that constitute foreign direct investors across its UK portfolio accounting for an estimated 60–70% of occupied floorspace.

Prologis have again imported words into Paragraph 13 of the guidance which misrepresent the public interest test. The public interest benefits have been set out by the Applicant as have the attempts to avoid CA. The individual Freeport sites were not envisaged by the Freeport to be multi developer or developed piecemeal, despite the implication of Prologis.

Freeport Benefits

Business rate loss from the failure to deliver the entire EMG2 site could be in the region of £288 million. The loss from the Southern Land alone would be £188m. These are figures provided by Freeport utilising their financial model which is not available to the Applicant.

Viability

Items (i) – (vi) referred to in paragraph 7.6(b) are all included in the Viability Appraisal (**REP1-027D**) in so far as relevant to the appraisal carried out.

The Applicant does not believe that the Morpeth case has any material bearing on the Secretary of State's decision as to whether the DCO should be granted with CA powers or not. The Applicant will await Prologis's consideration of the Viability Appraisal and receipt of viability evidence for the Joint Application from Prologis before responding further.

Highways

There is no basis upon which to assert that the highway mitigation proposed constitutes overprovision. The mitigation was identified through a process of monthly engagement with the Transport Working Group over more than three years and is both necessary for the development and also consistent with emerging plans for upgrading Junction 24.

The Applicant has relevant experience at EMG1 and Northampton Gateway in delivering large-scale infrastructure works. The DCO authorises the works directly through protective provisions, without being subject to the “sequential steps” which Prologis suggest would cause delay.

Conclusion

The EMG2 project has been designated by the Secretary of State as a project of national significance to enable it to take advantage of the DCO process, in particular timely decision and delivery and the availability of compulsory purchase powers.

The assertion that the Applicant has not appropriately engaged with Prologis and explored

reasonable alternative to CA is not borne out by the facts.

It has not proved possible to reach agreement on acquisition or other alternatives. The Applicant can only enter into such an agreement on sensible commercial terms which have not been identified to the parties satisfaction, notwithstanding the discussions which have taken place and the genuine efforts the Applicant has gone to in order to try to reach consensus. It is Prologis that are the disruptor. They became involved after the s.35 Direction in full knowledge of the intentions of the Applicant and the attendant risks to their position.

A key complaint of Prologis is that the private interest of Prologis is being harmed. Evidently any interference with that private interest is a matter which falls to be considered in the context of the ExP's and the Secretary of State's determination as to whether to authorise compulsory purchase powers. However, to the extent that private interest amounts to the denial of a commercial return from their own development then that is a matter which will be addressed in the consideration of the compensation payable. This is not a matter for consideration by the ExP. It is a matter for the Upper Tribunal (Lands Chamber) at a later time. Whatever Prologis/EMA are due by way of compensation (including any "controlling access payment" if due) they will receive through the determination of that tribunal if agreement cannot be reached.

RESPONSE TO PROLOGIS WRITTEN REPRESENTATIONS

1. Introduction

- 1.1. This is the Applicant's response to the written representations submitted on behalf of Prologis UK Limited and Prologis UK 121 Limited (Prologis WR) (**REP-257D and 267D**).
- 1.2. This document responds to the points in the order they are made. To avoid repetition some responses simply cross refer to other submissions.
- 1.3. The headings and paragraph numbers directly correlate to those used in the Prologis WR. The absence of a response to a paragraph does not signify acceptance of, or agreement with, its contents. It is either because no response is necessary or to respond would be to simply repeat responses elsewhere in this document.
- 1.4. Appendix 1 of the Prologis WR (Spawforth Planning Statement) is a lengthy document, and this response does not purport to respond to it given the time available and because it appears mainly to repeat what is said in the Relevant Representations and Written Representations submitted on behalf of Prologis.

1. The Prologis Introduction

- 1.3. This paragraph is one of several in this response, and in other documentation submitted by Prologis, where reference is made to Prologis *being "the largest global investor and developer of modern sustainable distribution space, with an established and readily evidenced track record of delivering complex, large scale logistics and industrial development"*¹. The Applicant has never cast doubt on the ability of Prologis to develop any site, including the Joint Application site (if it were viable), and would not seek to ask Prologis to produce evidence of its track record or capability. However, to the extent that the several references are intended to suggest that Prologis is better able/suited to develop than the Applicant such suggestion is rejected; it is clearly not right.

The Applicant is a FTSE 100 listed real estate investment trust and one of Europe's largest owners, managers and developers of modern warehouse and industrial space, with a portfolio of approximately 117 million sq ft (c. 10.9 million sq m) valued at over £20 billion. The Applicant is a leading provider of strategically important logistics infrastructure in the United Kingdom. It has unparalleled experience in dealing with the delivery of large scale logistics and industrial development and specifically the delivery of the substantial infrastructure often required to service it.

- 1.5 This paragraph contains the first of very many references to "*draconian*" powers of compulsory acquisition – the notion is responded to in the response to paragraphs 4.15 and 16 below.

2. Objection

- 2.2 Prologis repeat their complaint that significant evidence in support of the DCO application is outstanding. Whilst this issue was originally raised out of a desire on the part of Prologis to delay the commencement of the Examination it is also being said that there is ongoing prejudice in that respect. The paragraph sets out, in (a) to (d), the "*significant*

evidence” that Prologis assert has been missing. These are dealt with in turn below:

(a) Viability – the suggestion that Prologis are short of information on viability is disingenuous. Discussions have been taking place between Prologis and the Applicant for many months which discussions have included an exchange of information on all the aspects of site development that inform viability including costs, rents, yields, programme and financial appraisals. In the light of the position adopted by Prologis in its relevant representation, the Applicant volunteered to provide viability information to the Examination. The information submitted by the Applicant at Deadline 1 (Viability Appraisal (**REP1-027D**)) simply confirms the position to Prologis and is not, in substance, anything different from what they have already seen. Deadline1, at only one month into a six month Examination timetable, allows for viability issues to be fully examined.

(b) Socio Economic ES failure – the assertion is that the Applicant’s ES should have included an assessment of the “*adverse socio-economic and land-use effects*” of the DCO frustrating the delivery of the Joint Application in the event of the DCO development being authorised but not proceeding.. This is responded to in the Applicants Response to Relevant Representations (**REP1-051D Appendix 6 Issue 2 page 13**).

In addition, it should be remembered that the requirement of an Environmental Statement is to include “*a description of the likely significant effects of the proposed development on the environment*”² . If the DCO is made as sought then the Secretary of State will have concluded that it is likely that the proposed development, if consented, will be delivered. In those circumstances the frustration of the Joint Application because the DCO is not delivered or only delivered in part is not “likely” and therefore not something requiring to be addressed in an ES. To the extent Prologis takes a different view then it is open to them to inform the ExP of their view of the likely significant effects they believe are relevant, and they are doing so.

(c) Highways – Prologis assert that a complete highway package was not part of the application. However, it is important to understand that the constant references to the absence of PRTM 2023 modelling in the application overlook the fact that the proposed development and mitigation was modelled using PRTM 2019 and a completed core PRTM 2019 assessment was included in the application submission. It was PRTM 2019 which was the relevant model at the time of undertaking the work. This is explained in both the ES and the TA. It is not clear from the Prologis representations whether they have familiarised themselves with the modelled outputs and consequent assessment contained in the submitted application.

Although not required by National Highways to do so, at the request of Leicestershire County Council, a sensitivity test was carried out using PRTM 2023. It was agreed by both highway authorities that this was an acceptable approach. Those results are a sensitivity test and do not replace the position established through the PRTM 2019 modelling. They were submitted at Deadline 1 (**REP1-058**). In the event the 2023 PRTM outputs do in fact corroborate the 2019 assessment. National Highways have confirmed that they are content with the outcome of the sensitivity test. The LCC confirmation is awaited.

(d) Negotiations – The assertion of a lack of evidence of meaningful or timely negotiation is responded to in the Applicants Response to Relevant Representations (**APP- REP1-051D Appendix 5 Paras 1.20 – 1.28 and Appendix 6 Section 2 page 7 and Annex 1 and Issue 8 page 27**). Annex 1 of the response to the Prologis relevant representations sets out recent engagement with Prologis which is ongoing.

² Reg 14 (2)(b) The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

- 2.3 Prologis assert that they have been “*materially disadvantaged in its ability to participate effectively in the DCO process*” – as can be seen from the Applicant’s response to (a) to (d) above there is no such disadvantage.

3. **SEGRO’s Application**

Section 35 Direction

3.1 – 3.9

The ExP are referred to the answer to CAH1 - Action Point 15 (**REP1-053**) which confirms that the Applicant is content to commit to the inclusion delivery of the carbon neutral campus. The intention to accommodate the Maersk requirement remains and therefore there was no need to refer any change in the s.35 Direction to the Secretary of State. There is therefore no issue regarding compliance with the s.35 Direction.

It is important however not to take the description by Prologis of the effect of s.35 in these paragraphs at face value. This is the first example of several in the Prologis WR where an unsubstantiated gloss has been put on the words of statute or guidance. In para 3.2 it is said “*Any application made in reliance on a Section 35 Direction must correspond fully with the proposed project to which the direction relates*”. It then goes on to contradict itself in the next sentence by stating “*At the very least the proposed development must not be different in substance to that described by the Section 35 Direction either by contradiction, incompatibility or omission*”. It is not clear where either of those ‘tests’ have come from. They are not contained in s.35 nor any guidance or case law quoted on behalf of Prologis. There appears to be no basis for them.

Legal Basis for Determination of applications

3.10 – 3.17

The Applicant notes that the Prologis WR, post hearing submissions and response to action points submitted by Prologis at Deadline 1 all reach the same conclusion as the Applicant. Notably, Prologis does not take issue with the Applicants’ analysis that the ExP should adapt a split approach between s104 and s105 of the Planning Act 2008 (Applicants’ Post Hearing Submissions (**REP1-052**) Agenda Item 3 at Section 4 ISH1 and Applicant’s Response to Hearing Action Points (**REP1-053**) at Action Point 8).

However, Prologis suggest that the fact that the Highway Works form mitigation for the business and commercial development, is a relevant factor when considering the applicability of s104 and the National Networks National Policy Statement (NN-NPS). Paragraph 1.4 of the NN-NPS confirms that “*under section 104 of the Planning Act 2008 the Secretary of State must decide an application for a relevant NSIP in accordance with this NPS unless...*” one of the exceptions in sub-paragraph (4) to (8) applies. Paragraph 1.5 of the NN-NPS references the thresholds for highways projects at s22 of the Planning Act 2008. Satisfaction of those thresholds is detailed in Appendix 2 to the guide to the DCO Application [**APP-005D**]. The Applicant does not believe that any of the exceptions in sub-paragraph (4)-(8) of Section 104 apply and therefore the fact that the highway NSIP is required for mitigation of a commercial and business scheme (as well as having wider benefits) has no bearing on the application of s.104.

For completeness, the Applicants observe, that Prologis’ comments are directed solely towards the DCO Application and not the MCO Application.

4. **Deliverability of the Joint Application**

- 4.2 It is not accepted that “*the Joint Application represents the most direct route to policy-*

compliant, deliverable development". It is a wholly uncertain route for the reasons set out in the response to paragraph 4.6 below.

- 4.1 Prologis argue that the benefits of the DCO proposal are not sufficient, and sufficiently certain, to justify compulsory purchase. In respect of benefits the ExP is referred to the Applicant's Response to Relevant Representations (**REP1- 051D Appendix 6 Issue 6 page 21**). In respect of certainty of programme, the ExP is referred to the same response (**Appendix 6, Issue 3 page 14**) and in respect of certainty of viability the ExP is referred to the same response (**Appendix 6 Issue 1 page 10**) and also the Viability Appraisal (REP1-027D).

Progress of the Joint Application

- 4.3 Prologis assert that the remaining highway modelling work for the Joint Application is expected to be completed in April 2026 enabling the Joint Application to be reported to the Planning Committee in June or July 2026. As anticipated in the Applicant's Response to the Prologis RR this represents further slippage (**REP1- 051D Appendix 6 para 2.9 page 8**). It is not known whether this revised date is realistic there being no confirmation from the highway authorities concerned.

Even were the modelling to be completed in April, as suggested, there is no information provided as to what the outcome of that modelling is, notwithstanding that it is, presumably, well advanced.

From the National Highways latest Holding Objection (**REP1- 051D Appendix 6 Annex 2**) it appears that a likely outcome is the need for identification, testing and environmental assessment of further highway mitigation³. Such additional environmental information would need to be the subject of consultation. Therefore, the completion of the modelling is effectively the start of a further revision to the 2024 application the outcome of which is still wholly uncertain.

It is noted that, in their reply to Action Point 7 from ISH 2, National Highways have stated *"It is not possible to say whether the proposed SRN works in this DCO application would be required to mitigate the impact of the development on the northern part of the site, which is the subject of a separate planning application, as NH only received the PRTM Forecasting Report on 27 March and has not yet agreed the modelling. Therefore the impact of that development and the mitigation required is not yet understood."* (Page 22 **REP1-223**)

- 4.4 Reference is again made to the Applicant not utilising the PRTM 2023, the implication being that the Applicant deliberately avoided using the 2023 model and gained some advantage by doing so. The reasons for use of the 2019 PRTM have been explained in the application documentation and also in summary in the response to paragraph 2.2 (c) above. The Applicant commenced its work much earlier than Prologis and at that time the relevant model was PRTM 2019. The vast majority of the highway network affected by the Applicant's proposals is the SRN and it was entirely reasonable for the Applicant to use the model acceptable to National Highways at the time rather than wait an uncertain period for the finalisation of the PRTM 2023 and its acceptance by National Highways. In any event, and as noted above, sensitivity testing in respect of the PRTM 2023 has been undertaken to the satisfaction of National Highways.

³ The NH latest holding objection (6th March 2026) stated *"The PRTM assessment remains on-going and the absence of the VISSIM assessment at this stage indicates that impacts have not yet been established nor the need for mitigation identified"*.

- 4.5 The reference to DIRFT in this paragraph is not understood; certainly nothing flows from this (the Applicant has never suggested that Prologis is itself incapable of delivering – viable – logistics development).
- 4.6 In this paragraph Prologis refer to their delivery programme as not being “*merely aspirational*” which assertion is remarkable, in the context of
- the highway modelling not having been completed;
 - the highway mitigation therefore not known;
 - the need for further consultation therefore not known; and
 - if and when a planning permission will be granted also being unknown.

It is not clear therefore how Prologis can assert, as they do in this paragraph, that their programme “*materially outpaces anything achievable through the DCO route*”.

It is noted that in this paragraph the commerciality of occupier commitment in advance of a DCO or a planning permission is acknowledged.

The paragraph goes on to assert that the DCO route somehow contrasts with a quick mobilisation available to the Joint Application. This point is not readily understood given the relatively speedy deliverable that is the whole rationale of the DCO. If the point goes to the reference in the paragraph to Prologis being “*oven ready*” by continuing to take certain “*preparatory steps*” after the close of the Examination, then it really doesn’t make sense, if the comparison is with the DCO route. For example,

“*progressing reserved matters*” – there are no reserved matters for a DCO. There are details to be agreed however the experience of EMG 1 is that it is generally a quicker process than reserved matters approvals.

“*undertaking ground investigations*” – these have been carried out across the whole EMG2 main site for the DCO scheme and there is ample time after the vesting of the land to carry out any necessary further ground investigations prior to commencement.

“*preparing s.278 agreements*” – the equivalent of completed s.278 agreements are included in the DCO Protective Provisions. The DCO route avoids the need for any such agreements.

Notably, what is not mentioned in this context is the need for Prologis to deal with the parties who have the benefit of an overage (with whom the Applicant understands there has been no recent contact by Prologis) and the need to deal with the beneficiary of mineral rights (again with whom the Applicant understands there has been no contact).

Delivery of the DCO Application

- 4.9 Prologis state that the DCO is “*a commercial market-led form of development and it will only be implemented if and to the extent that it is commercially viable*”. That, of course, is the case for both schemes (i.e. both the DCO scheme and that which is the subject of the Joint Application) and it is also relevant in the scenario where the southern land is being asked to rely upon the delivery of the Joint Application land as a separate entity. The statement also applies to all commercial and business projects which would be the subject of a s.35 Direction and therefore authorised by a DCO.

Insofar as Prologis assert that the Applicant has not grappled with the ‘timing’ of delivery of its scheme, this is patently incorrect. The ExP is referred to the response to Prologis RR (**REP1- 051D Appendix 6, Issue 3 page 14**) where programming is set out and justified in detail and the response to paragraph 5.23 (c) below.

- 4.10 Prologis seeks further explanation as to why the Applicant has asserted that the approval of the Joint Application would undermine the DCO process. The purpose of the Applicant’s representations to NWL was to make it clear to the local planning authority what the consequence of any independent development on the Joint Application land would be, in terms of loss of the benefits of comprehensive development, loss of economic benefits, loss of the delivery of important infrastructure required for wider growth, including local plan growth – and also likely loss of the development of the southern land. All those factors are relevant to the consideration of whether or not to grant planning permission for the Joint Application and that is the context in which the Applicant was advising the local planning authority of its views. However, it is correct to say it is the implementation of the Joint Application development rather than the fact of a grant of planning permission of itself that would have a practical implication for the DCO scheme.
- 4.12 It is not clear what point is being made about take up rates here. Whatever applies to EMG1, or no longer applies, applies equally to the Joint Application and the DCO scheme. Neither Prologis nor the Applicant can guarantee take up.
- 4.13 In this paragraph Prologis cast doubt on the Applicant’s programme more details of which were included in the Applicant’s Response to Relevant Representations (**REP1-051D Appendix 6 Issue 3 page 14**). The doubts arising from the various factors mentioned in this paragraph are addressed by comparing the programme that was achieved for the much larger and more complex EMG1 development. This paragraph also appears to betray a misunderstanding as to how a DCO operates. For example, there is no need for highway agreements to be concluded following the approval of the DCO as suggested, these are already effectively in the DCO protective provisions. There also is no need to await resolution of compensation disputes before vesting the necessary land.
- 4.14 Prologis appear to be suggesting that the Applicant should build into their programme a delay (which would potentially run into years) to account for a legal challenge under section 118(1) PA 2008. Programmes for large scale projects do not ordinarily encompass all such risk items. Programmes reflect the expectation of delivery, in this case based on very relevant experience. It is accepted that to add a legal challenge into the programme would extend it, however, similarly that consideration would also apply to a challenge to any permission granted for the Joint Application.

4.15 and 4.16

These paragraphs are two of many which refer to the use of compulsory powers as “*draconian*”. Other emotive language is also used such as reference to compulsory purchase being an “*inherently adversarial tool*” and reference to “*SEGRO’s ‘winner takes all’ strategy*” and “*SEGRO’s aggressive reliance on compulsory acquisition*”.

It is worth remembering the context for the Applicant’s reliance on compulsory purchase powers,

Firstly, there is nothing inherently wrong in seeking CA powers in this situation. All Business or Commercial projects which are promoted through a DCO will be commercially driven by their nature and yet the same CA provisions in the PA 2008 apply to those projects as they do to all other DCO. The reason for this being that one of the

rationales of the DCO process is to overcome blockages to the delivery of projects of national significance caused by the inability to conclude the necessary acquisition of interests in land.

Secondly, the suggestion of an aggressive stance by the Applicant is not borne out by the facts. Over the last several years the Applicants has made extensive efforts to reach agreement with all parties whose land or interests are required and has been, in the vast majority of cases, successful. There are 46 plots⁴ in the Book of Reference which are subject to CA. The plots include land owned by a variety of parties, including commercial entities. The only objectors to CA are Prologis and EMA.

Thirdly, the suggestion that the Applicant's objective in seeking CA powers has been simply to frustrate the development of the Joint Application by a competitor is not borne out by the history of the involvement of the Applicant in the promotion of the DCO scheme.

Paragraphs 1.20 – 1.28 of the Applicant's response to the Prologis Relevant Representations (**REP1- 051D Appendix 6 Section 2 page 7 and Annex 1**) set out the situation which can be summarised as follows:

- The Applicant acquired an option of the land south of Hyams Lane in 2018
- The Applicant then worked with EMA to promote the entire site through the Local Plan exercise and to consider various options to bring forward the site and also airside development during 2020 - 2023.
- Despite many offers having been made to EMA it became apparent that it would prove difficult to reach agreement within any certain timescale and, due to that, and the attraction of a certain consenting timescale and process with which the Applicant was familiar given its DCO experience, an application was made for the s.35 Direction which was issued in February 2024.
- EMA submitted its (incomplete) planning application in June 2024 in the knowledge of the intention of the Applicant to progress the DCO.
- Prologis acquired its interests in October 2024 again in the knowledge of the intention of the Applicant to progress the DCO.

The actions of the Applicant in promoting the DCO with all necessary CA powers to secure delivery is entirely consistent with the objectives of the PA 2008 and the DCO process, which is designed to ensure that, in the absence of reaching agreement, compulsory powers will facilitate delivery.

Fourthly, the above appears to be recognised by Prologis when making their own, recent, application for a s.35 Direction in respect of a proposed logistics site near DIRFT⁵. In their submission document, an extract from which is contained at **Annex 1**, they have a section titled "**Reasons for seeking a direction under Section 35**" which includes the following:

"4.22 In addition, it is noted that to deliver the Project, powers of compulsory acquisition are likely to be required as private treaty negotiations on land rights cannot be guaranteed. Notwithstanding that Prologis has agreed positions on land control across the site, the consideration and grant of these powers through the DCO process would

⁴ Para 4.4 Funding Statement (**APP-020D**)

⁵ DIRFT IV Request for a Direction from the Secretary of State under Section 35 of the Planning Act 2008 18 November 2025

assist in this (sic) delivery of the Project, reducing uncertainty and risk of inconsistency in consenting.

4.23 Hence, the Project would benefit from the DCO consenting process, and as such, there is a necessity to pursue a direction from the Secretary of State”

As evidenced by Prologis’s own document, the use of compulsory purchase powers to facilitate the development of a DCO, including a Commercial and Business DCO, should not be construed as “*inherently adversarial*” or constituting “*aggressive*” reliance on CA. The powers are there to be applied for, and whether or not they are justified is a matter to be tested at the Examination.

In passing it is also noted that Prologis, in supporting their application for a s.35 Direction, seem to acknowledge, and pray in aid, the implementation advantages of a DCO for a project such as this. In their application for a s.35 Direction they state:

“4.19 Overall and in summary, the reasons for seeking a direction under s.35 are linked to the national significance of the Proposed Development and the complexities of delivering such a project through alternative consenting”

“4.21 ... It would also ensure a timely delivery of a decision, given the statutory timeframe imposed on DCO submissions”⁶

The above is in stark contrast to rather dim view of the DCO process they have set out in their various submissions in respect of this application.

5. Compulsory Acquisition

Background

Paragraphs 5.1 – 5.8 purport to set out the relevant legal tests for the justification of compulsory powers. These paragraphs should be approached with caution since there is a tendency to include, or imply the inclusion of, words into the PA 2008 and the relevant guidance that are simply not there.

The tests at issue in s.122(2) and (3), as expanded upon in the relevant guidance, can be simply put and no gloss is needed:

Section 122 essentially requires that the land/rights in question is required for the development (or is/are required to facilitate it or is/are incidental to it) and there is a compelling case in the public interest for the land/rights to be acquired compulsorily.

In terms of the paragraphs of the guidance at issue:

Paragraph 8 requires that the Secretary of State be satisfied that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored and that the proposed interference with rights is necessary and proportionate.

Paragraph 13 requires the Secretary of State to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired.

⁶ See **Annex 12A** attached

Paragraph 16 recognises that there may be circumstances where a DCO is granted but without compulsory acquisition powers. The examples given of when that may arise do not apply here. In reality, if the tests set out in s.122 in accordance with the guidance are met then there seems no basis for that scenario to apply.

The law is set out in Section 122 and the guidance advises on how that should be applied. The ExP must be cautious regarding any proposal which would have the effect of importing into the statutory tests set out in s.122 (and the relevant guidance), additional text which goes beyond those provisions.

- 5.4 The Applicant agrees with the central point in this paragraph which is that there can be a scenario where a DCO is granted but CA powers are not. There is no need to reference case law for this proposition– it is set out in paragraph 16 of the relevant guidance.
- 5.6 This paragraph sets out not what s.122 (3) requires to be considered but sets out Prologis’s own summary of what it considers should be considered. Whilst the Applicant does not dispute that the matters identified are all (at least potentially) relevant, they do not comprise a complete list (which point appears to be conceded by Prologis, by its use of the term “includes” when introducing the considerations).

The paragraph then seeks to draw on judicial comment in a 1983 case, that of *Prest*⁷. Whilst the Applicant is well aware of that decision, it is settled law that the use of compulsory purchase powers can properly be justified in order to achieve a better scheme of development in the public interest than an alternative scheme put forward by an objector which does not require compulsory acquisition. That, in essence, is the position here⁸.

Further, and to be clear, having regard to the principles in *Prest* the Applicant has demonstrated that those principles/requirements would be met in the present case to the extent that they are relevant.

- 5.7 It is said in this paragraph that none of the tests of legitimate purpose, of necessity and proportionality in CA Guidance paragraph 8⁹ are met.

Legitimate – this test is said to be failed because “*the purpose of compulsion is the commercial interest of SEGRO*”. If that were to really be the proposition being advanced then there would be no purpose served in having CA powers available for any DCO, other than those promoted by National Highways – they would all fail the test given that they would be promoted by parties having a commercial interest in the outcome. This would also apply to Prologis’s current s.35 Direction which they applied for partly to secure the availability of CA powers. In any event, the point is misconceived. The legitimate purpose in the present context, is that of enabling delivery of a development which is nationally significant, and which is in the public interest.

Necessity – this test is said to be failed because “*the Joint Application provides a willing,*

⁷ *Prest v Secretary of State for Wales* [1983] 1 WLUK 416 In *Prest* the decision concerned the acquisition of land for a new sewage works when an alternative site, acknowledged to be suitable, was available, with the only issue justifying the site to be compulsory acquired being the additional cost of provision of the sewage works on the alternative site. Despite it becoming clear before the Secretary of State’s decision that a sewage works on the alternative site would in fact be less expensive to develop the Secretary of State nevertheless confirmed the compulsory acquisition. The Court of Appeal allowed an appeal quashing compulsory acquisition.

⁸ Although in the case of the Joint Application it appears Prologis have not yet dealt with all the relevant interests in the land which are required to enable its development to proceed – overage and mineral rights.

⁹ Para 10 is referred to in the text however this is thought to be an error

capable and funded alternative” – but this is not correct, there is no planning permission, and even if there were it would relate to only 1/3rd of the site and it would not deliver the extensive benefits to be delivered by the DCO scheme. Absent compulsory purchase powers, the benefits of delivering the DCO scheme will not be realised; indeed, the stance/conduct of Prologis at the Examination illustrates that compulsory purchase powers are necessary for these benefits to accrue.

Proportionate – this test is said to be failed “*because if the objective is the delivery of Freeport benefits, co-operation – not compulsion – is the appropriate instrument*”. This rather misses the point of compulsory acquisition in the PA 2008 scheme. The PA 2008 deliberately provides for the use of CA when co-operation has failed so that the failure does not constitute a blockage to delivery of a project of national significance.

- 5.8 The ‘weighting exercise’ suggested at the outset of this paragraph is entirely misconceived. There is no ‘discount’ to be applied in respect of alleged “*public interest harms*” in respect of the manifest public benefits that the scheme will deliver; no such harms exist. The Applicant recognises that there is some degree of harm done to the *private* interests of Prologis by reason of the compulsory acquisition of its interest, but that harm will be addressed by way of payment of compensation (in the ordinary way). There is no ‘netting off’ of public benefits to be undertaken; notably Prologis cite no provision or caselaw in support of its proposition.

Further, it is said in this paragraph that “*...a key purpose of seeking CA powers is to prevent Prologis and MAG from developing their land in a way that would generate substantial public interest benefits in accordance with the policies of the adopted development plan*”.

Respectfully, this wilfully misinterprets the position. The clear purpose of seeking CA powers in this instance is to enable the delivery of a project of national significance. A consequence of the exercise of those powers would be that Prologis and MAG could not develop in the way they envisage but that is not the Applicant’s purpose. It is not disputed that the Joint Application, if it were viable, could deliver some degree of public benefit; however, that is significantly outweighed by the benefits that the delivery of the DCO scheme will bring.

The Nature and context of the CA sought

- 5.9 It is said “*This case involves an unusual set of circumstances, entirely created by SEGRO which distinguishes it from the overwhelming majority of compulsory acquisition cases generally, and under the PA 2008 regime in particular ..*” Reference to the history of negotiations referred to in the Applicants response to the relevant representations of EMA and Prologis (**REP-051D Appendix 5 Paras 1.20 – 1.28 and Appendix 6 Section 2 page 7 and Annex 1 and Issue 8 page 27**) establish that the Applicant has done its very best to avoid the precise circumstances referred to.

Whilst every application for CA powers has its own unique set of circumstances, they all share the same essential characteristics – an application to avail the promoter of powers available under statute enacted specifically to prevent development of national significance which will bring public benefits being frustrated by the inability to reach agreement with those holding relevant land interests. Further, the Applicant notes that Prologis misleads the Examination when it asserts that the present circumstances have been “*entirely created by Segro*”. As the ExP will have already noted, it was the decision of Prologis to seek to promote development cutting across the DCO scheme – a project

already well advanced when that decision was taken¹⁰ – that is the cause of the parties now being at odds.

- 5.10 The Applicant's position with regard to the history of negotiations is set out in the Applicants response to the relevant representations of EMA and Prologis (**REP1 – 051D Appendix 5 Paras 1.20 – 1.28 and Appendix 6 Section 2 page 7 and Annex 1 and Issue 8 page 27**). It is noted that Prologis have responded to the ExQ1 7.0.7 (**REP1-260D**) with its understanding of the negotiations that EMA were involved in in respect of the acquisition of its land over the last few years, rather than EMA responding on the basis of its direct knowledge. There are discrepancies between the Prologis response to ExQ1 7.0.7 and the position set out in the EMA relevant representations.

The ExP is referred to paragraphs 1.20 – 1.25 of the Applicant's response to the EMA relevant representations (**REP1-216D**) where the history is set out, which started in 2020 not 2022 as stated by Prologis. The Applicant was unaware that EMA was apparently going through a review process involving four developers to identify an alternative partner. The EMA written representation, at paragraph 6.1 set out the process of EMA reaching agreement with Prologis and states that it was "*between July-October 2024*" (**Paragraph 6.1 REP1 – 257D**)¹¹. However, it is said by Prologis that they were formally selected as preferred partner in May 2024, which directly contradicts EMA. (**Paragraph 6.1 REP1 – 257D**).

It was only after several years of seeking to reach agreement with EMA that the Applicant applied for the s.35 Direction. Even following the direction, the Applicant made further offers and since the involvement of Prologis has attempted to reach agreement exploring various options including outright purchase and joint venture.

The purpose of the s.35 Direction was not simply to obtain CA powers, as implied, it was also to take advantage of the DCO consenting route, of which the Applicant had experience This avoids, as Prologis put it in their own s.35 application, "*the complexities of delivering such a project through alternative consenting*" and "*it would also ensure a timely delivery of a decision, given the statutory timeframe imposed on DCO submissions*".¹² The Applicant was also well aware of the implementation benefits which result from a DCO, such as the lack of a need to enter into highway agreements or pursue separate footpath diversion orders.

- 5.11 Prologis state that there is "*no certainty that, if CA were authorised, the land would in fact be developed as proposed within the timeframe or at all*". Whilst it is correct to say that there can never be absolute certainty that an unforeseen event or circumstances might occur to prevent development. That reality applies to every DCO ever granted and also applies to the Joint Application development even were it to be viable.

However, more importantly, in this particular circumstance the ExP can and should however have a high degree of confidence based on the track record of implementation of large schemes such as this by the Applicant including EMG1 and the very significant investment already made in promoting this DCO which, by the time the DCO decision is made, is estimated to amount to £11.5m with approximately £9.6m already having been spent.

¹⁰ EMG2 had already been subject to a scoping exercise with NWL during the course of 2023 and the s.35 Direction was issued in February 2024 - some seven months prior to Prologis obtaining an interest in the site.

¹¹ The Applicant was not told that EMA had selected an alternative partner until September 2024

¹² See Response to Paragraph 4.15 and 4.16 and footnote 9

Prologis acknowledge that “*SEGRO is an experienced and well-resourced developer*”¹³. Given the stature of the Applicant as set out in the Funding Statement (**APP – 020D**) and its track record there is clearly “*a reasonable prospect of the requisite funds becoming available*” as required by Paragraph 9 of the relevant guidance. The Applicant has demonstrated that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following the order being made as required by Paragraph 18 of the guidance.

- 5.12 The attempt by Prologis to distinguish the current position from that which maintained in the context of the AMEP DCO application is misguided. As will be evident to the ExP, the factual matrix in that instance was different to that now before the Examination. However, the point of principle at issue clearly still applies. Able Marine were seeking to bring forward port development by way of a DCO on the Humber estuary, and in doing so sought compulsory purchase powers over land held by Associated British Ports (ABP). The land in question represented the last holding in ABP’s ownership, which was undeveloped, with direct deep water access to the estuary. It also benefitted from proximity to liquid petroleum gas storage facilities (in the form of the subterranean gas caverns) and an entry point into the former Government Pipeline and Storage System. Whilst it is correct that no application for a planning application or harbour revision order had been submitted at the time of the DCO examination, the land was identified for development in ABP’s port plan, and ABP was well advanced in its application preparations, seeking to promote a finger pier development proposal to enable the importation of liquid fuels¹⁴. The Secretary of State ultimately determined to grant Able Marine compulsory purchase powers in respect of ABP’s land, to the former’s commercial benefit and the latter’s commercial disadvantage. Accordingly, the parallel drawn by the Applicant at CAH1 is entirely apposite.
- 5.13 In this paragraph Prologis reiterate one of their themes, as follows – “*The Secretary of State should be particularly cautious in granting CA powers to a private developer over the land of another private developer who intends to develop the land in the same manner and for the same purposes*”. This is an attempt to introduce additional tests into the relevant law and guidance. Crucially, there is no special consideration required or higher bar imposed in these circumstances, and the Applicant notes that Prologis advances no legal authority for its proposition. The tests in the law and guidance simply have to be applied, which will encompass anything of relevance regarding the parties whose land is being required.

Whilst Prologis suggest that the Secretary of State should be particularly cautious in granting CA powers to a private developer over the land of another private developer similar caution should be applied in accepting/assuming that there should be some sort of ‘immunity’ against CA in such a situation or that a higher degree of protection from CA should be afforded to developers. Leaving aside the lack of any basis for this proposition in relevant law or guidance, such an approach of itself could have unintended consequences. It could encourage private developers, after it was known that a DCO was being pursued, to acquire an interest in affected land (as has happened here) in the knowledge that CA powers against them would not be granted and the Applicant would therefore be forced to treat at any price, causing, at the very least, delay, and at the worst frustration of schemes in their entirety. This outcome would be fundamentally at odds with the intention behind the DCO consenting route.

If CA powers were thought to be inappropriate or to be subject to different considerations

¹³ Para 5.27 (b) of Prologis WR (**REP1-257D**)

¹⁴ It was this development which ultimately formed the basis of the commercial settlement between the parties, following reference of the compensation dispute to the Upper Tribunal (Lands Chamber).

for commercial and business projects then they could have been excluded, or guidance altered, when the DCO process was extended to commercial and business projects. It is not surprising that this course was not adopted by legislators/government, since the extension of the DCO consenting process to commercial and business projects was deliberately intended to allow those commercial and business projects of national significance to have all the advantages of the DCO consenting process to facilitate quicker delivery, a key advantage being CA powers.

- 5.14 This paragraph is one of several places where Prologis refer to foreign direct investment (FDI) almost as if facilitating such investment was unique to Prologis.

Firstly, Prologis suggest that there may be a risk to FDI if CA powers are granted. The examples given are not real life examples but simply amount to scaremongering. In short, there is no evidence of the Applicant's proposals posing any future risk to FDI. It is notable that, notwithstanding the existence of the s.35 Application and the Applicant's clear intention to submit a DCO, Prologis nonetheless decided to invest in the land north of Hyam' Lane. Prologis advise in Paragraph 5.15 that it considers risk in making its own investment decisions and yet it still proceeded.

Secondly, the letter at Appendix 4 of the Prologis WR also does not give any real life examples of any FDI concern. The letter is, of itself, peculiar. It was sent on Deadline 1 (7 April 2026) but is not addressed to the ExP which is the appropriate audience for such a letter during an Examination. It is written to the "Customer Services and general enquiries" office of the Planning Inspectorate in Slough. It is not addressed to anyone specifically, let alone a person who has knowledge of the relevant application, and it has no application reference on it to assist.

Thirdly, Prologis places weight on its position as a source of FDI into the United Kingdom, implying that this differentiates it from the Applicant. Such alleged distinction is wholly misconceived.

SEGRO plc is itself a significant conduit for FDI into the UK logistics sector. At East Midlands Gateway (EMG1), approximately 90% of occupiers are foreign-owned businesses, demonstrating the strong role the development plays in attracting international investment. There is every reason to expect that EMG2 would similarly attract a high proportion of foreign direct investment, given its comparable specification and strategic location.

More broadly, the Applicant's business model is underpinned by international capital. Approximately 66% of its shareholder base is located outside the United Kingdom, further evidencing the extent to which the Applicant plays a significant role in attracting and supporting foreign direct investment into the UK logistics and supply chain sector.

Across its UK portfolio, the Applicant has approximately 120 occupiers that constitute foreign direct investors, representing around 15% of its total customer base but accounting for an estimated 60–70% of occupied floorspace. This demonstrates the disproportionate role that international occupiers play within the Applicant's portfolio. This is particularly evident within the Applicant's National Markets portfolio, including at East Midlands Gateway, where the scale, connectivity and quality of the logistics offer has proven highly effective in attracting global occupiers and facilitating inward investment into the UK economy.

Bringing forward comprehensive development in a single phase provides the best chance of creating a consistently high quality environment which in turn provides the best chance of attracting and delivering FDI.

5.15 and 5.16

The references to the MIGA report and the report from UNCTD are unduly alarmist and without basis. Those documents principally relate to a concern of expropriation of assets without compensation. They do not specifically relate to the compulsory purchase regime in the UK which provides for powers of compulsory purchase with the payment of compensation.

- 5.18 Reference is made here to the collaborative ethos of the Freeport designation. The Applicant is a Board member and fully supports the aspiration of a corroborative ethos and has consistently worked with the Freeport in relation to various aspects of the development of the Freeport sites in EMG1 and EMG2. The Applicant has also, with others, sought to assist the Freeport with unlocking the other Freeport sites which are dependent upon infrastructure improvements. It is notable that the only EMAGIC Freeport development actually delivered to date has been the Freeport sites within EMG1. In contrast, the EMAGIC Freeport sites within the Airport have not been brought forward for development as yet.

The Applicant views the need to pursue CA powers as unfortunate and acknowledges that the need for it has caused friction between EMA and the Applicant both of whom are Freeport Board members. However, the need for the CA powers is itself partly driven by a desire to meet the objectives of Freeport in delivering the entirety of EMG2 Freeport site by 2031. It is the Applicant's belief that it is highly unlikely that any of the EMG2 Freeport site will be delivered unless the DCO is approved with CA powers.

Collaboration is always the route the Applicant pursues, as evidenced by the lack of opposition to CA by other parties to this DCO and at EMG1 and Northampton Gateway. Collaboration takes two parties and is inevitably dependent upon the agreement of commercially sensible terms which reflect the reality of the costs of the scheme, value of the land and other relevant factors, all as set out in the Viability Appraisal (**REP1-027D**).

Assessment of public interest benefits proffered by SEGRO

- 5.19 This paragraph is an example of words being imported into relevant law and guidance. The statement that "*The public benefits must be clear, substantial and – critically-incapable of being achieved by means that do not involve the compulsory acquisition of land already controlled by a willing and capable developer*" does not appear in any of the law and guidance. To be clear, and as noted above, the principle that confirmation of compulsory purchase powers can be appropriate in order to deliver a superior scheme, delivering greater benefits, in preference to a scheme supported by an objector to compulsory purchase, is long established.
- 5.21 The material benefits of the DCO scheme have been set out in the Statement of Reasons (**APP- 019D**) and the response to the Prologis Relevant Representation (**REP1- 051D Appendix 6 Issue 6, page 21 and Annex 5**). The ExP is also referred to the Joint Position Statement submitted on behalf of the Applicant and National Highways at Deadline 1 (**REP1-060D**). It is self-evident that the benefits of the DCO scheme are greater than those that would be delivered by the Joint Application development, were it permitted and viable.
- 5.23 The separate points made in this paragraph are responded to below:
- (a) The benefits of comprehensive development have been set out in in the response to the Prologis RR (**REP1 – 051D Appendix 6 Issue 6 page 21 and Annex 3**)

and Annex 5) and in response to the EMA relevant representation (**REP-051D Appendix 5 paragraphs 1.43 -1.47**). The suggestion that the Freeport was always envisaged as “a multi developer, multi parcel enterprise” and therefore piecemeal development is acceptable is disingenuous.

It is of course true to say that the Freeport is made up of many separate sites all of which it has always anticipated would be developed by separate entities (Uniper at the Power Station, EMA on the Airport sites, the Applicant on EMG1 and, at the time of designation, the Applicant (potentially in collaboration with EMA) on EMG2). However, there is no evidence to suggest that the Freeport envisaged that the separate sites would be developed on a piecemeal basis. The benefits of comprehensive development cannot be gainsaid in any event by a non-planning Freeport designation.

- (b) It is said that the Applicant has failed to explore alternatives to CA. The issue of reasonable alternatives was responded to in the response to the Prologis RR (**REP1- 051D Appendix 6 Issue 7**). It is said “*There is, in fact, no legal or technical impediment to [design codes, s.106 obligations, a joint venture arrangement, a master infrastructure framework or targeted access solution] achieving the same outcome*”. That misses the point. An effective pre-condition to any joint development is the ability for parties to agree terms and to co-operate and successfully collaborate. This has patently not happened despite best efforts on the part of the Applicant and seems highly unlikely to happen having regard to the difficult situation Prologis find themselves in in respect of the viability of their site, and Prologis’s repeated references to the Applicant being a commercial competitor having advanced aggressive tactics.
- (c) It is ironic that Prologis suggest that certainty of timeline is not a benefit of the DCO consenting route in comparison to a planning permission given that is the opposite of what they said in their own application for a s.35 direction.¹⁵ The suggestion that the Joint Application is “*more favourable*” in respect of certainty of timeline is, quite obviously, not supported by the facts. It is not known if and when the Joint Application will be considered and whether planning permission will be granted. Further, it is not known what the form of any planning permission will be, particularly in respect of highway mitigation. There remain many matters to be dealt with as set out in the response to paragraph 4.6 above which include the need to reach agreement with parties with other interests in the Joint Application Land. The fact that the Joint Application is said to be “*programmed to commence construction in early 2027*” is entirely aspiration and has no reliable basis.

In contrast the Applicant has set out its programme and has supported it by evidence (**REP1- 051D Issue 3 page 14 and Annex 4**). The only matter not explicitly referred to in that programme is the time taken to put in place security guarantees for CA before the exercise of CA powers. At EMG1 the time taken to agree the relevant security guarantee from provision of the draft guarantee to completion of the guarantee was less than four weeks and at Northampton Gateway it was less than three weeks. The EMG2 programme allows for significantly in excess of those periods to be taken if necessary.

SEGRO’s Freeport Benefit Arguments

5.24- 5.25

¹⁵ See Response to Paragraph 4.15 and 4.16 and footnote 9

Prologis query figures provided at ISH1 which are also contained in the letter in Annex 3 of the response to the Prologis RR (**REP1- 051D Appendix 6**). The figures relating to the loss of business rates were supplied to the Applicant by the Freeport utilising a Freeport model which is not available to the Applicant. They relate to the net position i.e. the loss of the Southern land. The equivalent figure for the loss of the entire site, as advised by the Freeport is in the region of £288m.

In 5.25 (c) it is acknowledged that “*compulsory acquisition justified by reference to the benefits of comprehensive land assembly is commonplace*” but then there is an attempt to distinguish this case in paras (i) – (v) which are responded to briefly below:

- (i) Whilst there may be, as said, “*only two main land holdings*” (if one takes the separate landholdings of EMA and Prologis as one) that is not a distinguishing feature as suggested. There are in fact many land interests noted in the Book of Reference in relation to the EMG2 Main site which are interfered with, as is the case with most CA cases. The Applicant has successfully engaged with all of them with the exception of EMA and Prologis.
- (ii) The comparative benefits are addressed in the response to the Prologis RR (**REP1- 051D Appendix 6 Issue 6 page 21 and Annex 3 and Annex 5**) and in response to the EMA relevant representation (**REP1- 051D] paragraphs 1.43 - 1.47**).
- (iii) See Viability Appraisal (**REP1- 027D**) and the response to the Prologis RR (**REP1- 051D Appendix 6 Issue 7 page 23**).
- (iv) See response to Paragraph 5.23 (b) above.
- (v) See response to Prologis RR (**REP1 – 051D Appendix 6 Issue 7 page 23**)

The no-DCO Scheme world

5.27 This paragraph repeats points already made.

5.28 Reference is made in this paragraph to a draft SPD very recently produced by the Freeport last month which seeks to start a process whereby the infrastructure required to unlock Freeport sites and other planned development in the administrative districts of North West Leicestershire, Rushcliffe Borough and South Derbyshire area could be contributed to by development.

The SPD seeks to rollout models used elsewhere such as Milton Keynes. Contrary to what is said in paragraph 5.28 the draft SPD was not prepared by the three local authorities affected, it was prepared by solicitors and planning consultants on behalf of the Freeport and then provided to the affected local authorities to consult upon all of whom are at different stages of their local plan cycles. It is at a very early stage.

The draft document has been rushed out in order to secure its adoption before 30 June when the roll out of the new local plan making system effectively commences. The Agenda item of the NWL Committee that considered it is contained in **Annex 12A** from which it can be seen that the SPD is bereft of the most basic, relevant, information required in any pooled contribution SPD. That information it seems is to be contained in an Infrastructure Delivery Plan which is as yet not even in draft. The first draft (which will still not have the works identified and costed) is understood to be very many months away. The SPD is effectively a skeleton document.

Importantly, the draft document doesn't even identify the basic components of any pooled contribution scheme. It doesn't identify:

- the infrastructure works to which it relates:
- the estimated cost of the works;
- the development which is to be required to contribute to the cost of those works
- on what basis the contributions are to be calculated
- when contributions are to be paid
- what body is actually going to deliver the required infrastructure

Crucially it also does not seem to have an appropriate policy context in Local Plans to which it can be properly described as being supplemental.

The document is being consulted upon by the three Councils who then will need to agree between them on how to respond to the consultation responses. Given the above deficiencies of the SPD the outcome of the consultation exercises cannot be assumed. Even were the document to be adopted by 30 June it includes no content which would enable any monetary contribution from any site to any infrastructure to be calculated or secured.

Whilst the Applicant does not seek to overly criticise the initiative it is clear that it will be some considerable period (very likely years, not months) before a legitimate policy endorsed framework is in place which will enable infrastructure improvements at Junction 24 to be funded through that route. It will certainly not be in place in time for the Joint Application to make a contribution and commence construction in early 2027, if that is what is being suggested.

The consortium of developers¹⁶, who have an identified and costed a scheme for the necessary infrastructure improvements at Junction 24, is a more likely route to the delivery of the necessary infrastructure improvements.

- 5.29 In this paragraph Prologis identifies what it believes is the “realistic alternative world” to the DCO/CA world. That comprises “(a) *Prologis delivers the Joint Application on the Prologis/MAG Land by 2029; (b) SEGRO promotes a Town and Country Planning Act 1990 planning application on the Southern Land, with access and infrastructure co-ordination agreed through negotiations and standard planning mechanisms; and (c) highway mitigation at J24 is delivered cumulatively through the multi-developer consortium framework already in progress.*”

For very many reasons articulated in this response and previous responses, it is clear that the scenario suggested by Prologis is not grounded in reality. It simply would not happen. Thus, the comparative exercise advocated by Prologis is entirely misconceived.

Certainty of Delivery

- 5.32 Once again words are imported into the guidance. Prologis state that there must be “*robust and compelling evidence of likely delivery and its timing*”. Those words do not appear in s.122(3) nor the relevant guidance. The tests with respect to funding are set out in the response to paragraph 5.11 above. The programme has been fully set out and evidenced by a comparison with EMG1 (**REP1- 051D Appendix 6 Issue 3 Annex 4**).

¹⁶ To which reference is made in the Joint Position Statement between the Applicant and National Highways (**REP1-60D**)

Public Interest Harm

5.33 – 5.36 These paragraphs repeat points already made.

5.37 See response to paragraph 4.9 above.

5.38 See response to paragraph 5.13 above.

5.39 This paragraph repeats points already made.

5.40 The points made in this paragraph have in the main already been responded to however it is worth noting that the suggested scenario that “*The Secretary of State could grant development consent for the DCO Scheme on the Southern Land whilst refusing CA powers over the Prologis/MAG Land. In that scenario SEGRO would realise the benefits of developing the Southern Land whilst Prologis delivers comparable benefits on the Prologis/MAG Land pursuant to the Joint Application*” is entirely dependent upon:

- (i) the additional highway mitigation for the Joint Application which results from the outcome of modelling being affordable and deliverable – which is as yet unknown
- (ii) the Joint Application receiving permission this summer – which is as yet to be seen
- (iii) the Joint Application permission being viable – which is contrary to the understanding of the Applicant (**REP1- 051D Appendix 6 Issue 1 Para 3.9 – 3.14**):
- (iv) the DCO scheme on the southern land being viable on its own – which is contrary to the evidence of the Applicant (**REP1 – 051D Appendix 6 Issue 1 Para 3.9 – 3.14**): and
- (v) agreement being reached between Prologis and the Applicant regarding the provision of an access and other infrastructure over the Joint Application land – which seems highly unlikely given that Prologis would be providing access to a commercial competitor.

6. Reasonable Alternatives

The points made in this section have been responded to in the response to the Prologis RR (**REP1- 051D Appendix 6 Issue 7 page 23**). There are some additional points in response.

6.4 This paragraph misrepresents the position with regard to the position of the highway access. The position is as set out in the response to the Prologis RR at paragraph 2.15. The highway access misapprehension is described as “*the first in a pattern of actions which suggests a deliberate effort to frustrate the presence of viable alternatives rather than explore them in good faith*”. The Applicant is not aware of the pattern of actions referred to and they are not further specified.

6.6 and 6.7

The Applicant completely rejects the contents of these paragraphs which misrepresent the actions of the Applicant over the last few months. The ExP is referred to the Chronology of Engagement since preparation of the Pre-Application Land and Rights

Negotiation Tracker (**REP1 – 051D Appendix 6 Annex 1**). Discussions are also ongoing directly between Prologis and the Applicant with meetings taking place as recently as 13 April with a further meeting programmed for the 22nd.

These paragraphs simply misrepresent the position. For example, the paragraph states “*It [SEGRO] agreed to meetings between valuers but cancelled the meeting when arranged*”. The situation is that a meeting was arranged however it had to be cancelled due to a case in the Upper Tribunal running over. Both parties had known that might be a possibility. Since that meeting was cancelled the valuers have met via Teams and spoken on a number of occasions.

7. Viability and Funding

The ExP is referred to the response to Prologis RR (**REP1- 051D Appendix 6 Issue 1 page 10**) and the Viability Appraisal submitted at Deadline 1 (**REP1- 027D**).

- 7.6 (b) In this paragraph Prologis set out the commercial assumptions that the viability evidence should contain. The Applicant can confirm that items (i) – (vi) are all included in the Viability Appraisal in so far as relevant to the appraisal carried out.

The Morpeth Decision and the Relationship Between Funding and Viability

7.1 - 7.17

The Applicants note the comments made by Prologis at paragraphs 7.7 – 7.17 and agree that the Morpeth decision is not authority for the principle that the presence of secure funding necessarily renders a scheme viable. It is agreed that availability of funding and the viability of a scheme are two different things. Ultimately it is for the Applicant or any developer to consider both funding and viability and then decide whether it wishes to proceed with a scheme or not.

- 7.18 As regards the assertion by Prologis that the Applicants' Funding Statement (**APP – 020D**) is not in accordance with paragraph 17 of the CA Guidance, this proposition is wholly rejected. By way of example, there is no requirement in the CA Guidance for a “*project-specific analysis of implementation costs*” as suggested by Prologis.
- 7.19 The Applicants do not accept the assertion by Prologis that its Funding Statement fails to address any shortfalls in funding. The Applicants have confirmed that EMG2 is independently viable and it not necessary therefore to consider any shortfalls. Further, as funding and viability are distinct from each other, so are alternative schemes. It is not paradoxical as Prologis suggest that land for an unviable scheme can render another scheme viable.
- 7.21 The suggestion that the Morpeth decision has a further, highly instructive implication for EMG2 is fundamentally misconceived and without merit. The circumstances in Morpeth were entirely specific to that scheme, and it is wholly inappropriate to suggest that the cancellation of a publicly funded scheme has any bearing whatsoever on whether EMG2 will proceed. There is no requirement in the CA Guidance for certainty of delivery, nor could there be. The CA Guidance requires only that potential risks or impediment to implementation be properly managed (paragraph 19). The Applicants have unequivocally confirmed that they have the resources to deliver the scheme and have submitted evidence that the scheme is viable, demonstrating that there are no financial impediments to the scheme proceeding.

The Blight Caused by Compulsory Acquisition Powers

7.22 – 7.23

As regards the blight caused by compulsory acquisition powers the fact that the grant of CA powers could blight land is not itself a reason not to grant CA powers. If it were, then no CA powers would ever be granted. The compensation regime exists to provide redress to the landowner.

The Risk of Exercise Without Build Out

7.24 – 7.25

The suggestion that the Morpeth decision is direct and powerful evidence that the grant of a DCO with CA powers does not guarantee that the development will proceed is misguided. The Morpeth decision was wholly specific to its own facts and circumstances, and no general principle whatsoever arises from it.

In the highly unlikely event that the Applicant does not exercise CA powers, should they be granted, the powers will simply lapse. Given the considerable investment and commitment, the Applicants have already demonstrated in progressing the DCO process to this stage, such an outcome is extremely remote. In those circumstances, Prologis would retain full control of its land and would be free to deal with it as it sees fit.

Conversely, should the Applicant exercise those powers and acquire the Prologis/MAG land, appropriate compensation will be payable to Prologis in accordance with the compensation code. Prologis would then be at liberty to deploy that compensation towards alternative development opportunities, should it wish to do so.

In either scenario, the question of revocation - or the absence thereof - has no material bearing on the Secretary of State's decision as to whether the DCO should be granted with CA powers or not.

Prologis' Preliminary Observations on SEGRO's Viability Case

The Applicant will await Prologis' consideration of the Viability Appraisal (**REP1 – 027D**) and receipt of the viability appraisal of the Joint Application, due at Deadline 2, before responding further on viability. However, by way of preliminary comment, the Applicant confirms that it rejects entirely the "*contradiction*" alleged in respect of the Applicant's case at paragraphs 7.27-7.29. There is no such contradiction. Much as Prologis/EMA may wish to extract a ransom payment in respect of the DCO scheme, the Viability Appraisal makes it clear that it has no entitlement to such. The position adopted by Prologis is misconceived.

All other matters contained in paragraphs 7.26-7.35 will be addressed once Prologis has provided its own viability analysis, promised at Deadline 2.

8. Highways

8.1 The ExP are referred to the response to paragraph 2.2 (c) above in relation to the completeness of the highway information provided with the application

- 8.2 Notwithstanding Prologis' incomplete understanding of the highway information they are, presumably, keen to describe the highway mitigation put forward by the Applicant as overprovision because they recognise that it is a material benefit not offered by the Joint Application. Prologis appear to suggest that if the mitigation that is required to address the impacts of the development also has wider benefits, as here, those wider benefits are required to be ignored for the purpose of ascertaining any public benefits arising from the scheme and weighing them in the balance. There is no basis for such an assertion.
- 8.3 The reference in this paragraph and the ones which follow imply that the Applicant is carrying out more mitigation than is necessary, at significant cost, solely in order to pray in aid the wider benefits of that mitigation in the CA balance. The ExP is referred to the answer to ISH 1 Action Point 7 (**Appendix 1 REP1-053**) in which the process of identifying the highway mitigation was explained. It was a process which commenced in 2022 and involved monthly meetings with the Transport Working Group over a period of over three years. The mitigation ultimately identified is necessary for the development of the EMG2 site but also consistent with emerging plans for the upgrading of J24 and will therefore also assist in unlocking a wider J24 constraint – as described in the Joint Position Statement between the Applicant and National Highways (**REP1- 060D**) and the note in response to ISH Action Point 16 on the Need for a Strategic Approach to Mitigation. (**Appendix 3 REP1-053**). The public benefit is to be welcomed rather than criticised.
- 8.4 The delivery of the highway works is addressed in the response to the Prologis RR (**REP1 – 051D Appendix 6 Issue 3** page 14). As regards funding, the ExP is referred to the response to paragraph 5.11 above. The Applicant has extensive experience of delivering large infrastructure works with its large schemes, including the extensive works for EMG1 at Junction 24 and the Kegworth Bypass (detailed in the response to Prologis RR Issue 3) and significant works, including a bypass for the village of Roade, at Northampton Gateway. There was never a suggestion in those cases of overprovision.
- 8.6 Prologis refer to the National Highways Project Control Framework and suggest that there are sequential steps that may delay the delivery of the highway works. This fear is misplaced. The DCO will authorise the Applicant to carry out the works in accordance with the protective provisions. The same overall governance arrangements will apply as did to EMG1 and the Applicant has supplied information as to the actual timetable for the delivery of those much more complex and extensive works which demonstrates that Prologis' fears are unfounded.

8.8 and 8.9

Prologis are mistaken in suggesting that the impact of the MCO development alone has not been assessed. The assessment is contained in section 6.9 of ES Chapter 6. The further assessment that has recently been carried out utilising the 2023 PRTM was submitted at Deadline 1 (**Document MCO 7.10**).¹⁷

Conclusion

The EMG2 project has been designated by the Secretary of State as a project of national significance to enable it to take advantage of the DCO process, in particular timely decision and delivery and the availability of compulsory purchase powers.

The assertion that the Applicant has not appropriately engaged with Prologis and explored reasonable alternative to CA is not borne out by the facts.

¹⁷ At the time of writing this document has not been included in the Examination Library.

It has not proved possible to reach agreement on acquisition or other alternatives. The Applicant can only enter into such an agreement on sensible commercial terms which have not been identified to the parties satisfaction, notwithstanding the discussions which have taken place and the genuine efforts the Applicant has gone to in order to try to reach consensus. It is Prologis that are the disruptor. They became involved after the s.35 Direction in full knowledge of the intentions of the Applicant and the attendant risks to their position.

A key complaint of Prologis is that the private interest of Prologis is being harmed. Evidently any interference with that private interest is a matter which falls to be considered in the context of the ExP's and the Secretary of State's determination as to whether to authorise compulsory purchase powers. However, to the extent that private interest amounts to the denial of a commercial return from their own development then that is a matter which will be addressed in the consideration of the compensation payable. This is not a matter for consideration by the ExP. It is a matter for the Upper Tribunal (Lands Chamber) at a later time. Whatever Prologis/EMA are due by way of compensation (including any "controlling access payment" if due) they will receive through the determination of that tribunal if agreement cannot be reached.

Responses to ExQ1		
ExQ	Interested Party's Response	Applicants' Response
<p>Planning application on northern part of EMG2 site</p> <p>1.3.1 - Could NWLDC provide a copy of the 24/00727/OUTM application. This should consist of the application form, drawings showing any land proposed for development and (indicative) layouts and/or parameters plans, together with details of any off-site infrastructure which it is intended to secure as part of that development. In addition, could NWLDC provide information, so far as it has it, as to the timetable for consideration of the application and for any subsequent legal agreements, if necessary, to be completed. Could Prologis/ EMIA please set out its intentions for the consideration of the application. If the application is amended so that any of the above details change, can we please be provided with that information.</p>	<p>The following wording has been agreed between Prologis and NWLDC:</p> <p>Prologis have provided the requested clarification and technical updates to support NWLDC's assessment and address queries from consultees. There are limited outstanding matters which remain under review or require final clarification, Principally they relate to highway modelling and mitigation, which is ongoing with National Highways and LCC targeting a conclusion in April 2026, and the compliance of the development with Policy Ec2(2) of the adopted Local Plan. The expected planning committee date for determination is either June or July 2026 and depending on the extent of progress with a legal agreement prior to the determination of the application, it would likely take between one to two months for the agreement to be finalised and planning permission to be issued following any positive determination.</p>	<p>The Applicants' view is that the timetable set out by Prologis for determining the Joint Application is not realistic given the outstanding matters to be resolved prior to determination (including highways modelling and agreement on highway mitigation).</p>

<p>1.3.2 - Could the applicants and Prologis/EMIA please provide details, including a plan, showing compatibility/ non-compatibility of the proposed development and that subject to application 24/00727/OUTM. They should set out why they hold this position. The ExP is particularly interested where any proposals would mean that the two developments would not physically be able to be provided.</p>	<p>Plans have been prepared showing the relationship between the DCO proposals and the Joint Application. Both schemes seek the same type of development in outline form, controlled through parameter plans rather than detailed layouts. A table identifies key points of comparison and the differences between the two applications. None of these differences represent an insuperable incompatibility. It was open to SEGRO to amend its DCO Application to align with the Joint Application, an approach recommended to SEGRO well before the examination commenced.</p>	<p>See Applicants' response to the same question [REP1-054].</p> <p>Prologis criticises the Applicants' decision to proceed with a single point of access. The Applicants consulted on two points of access and in response to feedback, a single point of access was preferred. The Applicants would refer the interested party to Chapter 13 and table 23 of the Consultation Report [APP-208].</p>
<p>Land North of Hyams Lane</p> <p>7.0.7 - Could the applicants, Prologis and EMIA set out their understanding as to how the land north of Hyams Lane was sold by the previous owners. That is, was it offered for private sale, by tender, by 'best and final offers' or any other process such as the parties direct approach to the owner? The ExP would appreciate information as to whether the marketing, if any, related to potential options agreements or only for outright sale. The ExP would also appreciate the parties understandings of the timeframes for any such sale. The parties should also submit any documents they may have to support their positions.</p>	<p>The Prologis freehold land (approximately 12.55 hectares) was acquired in October 2024 from the Jarrom family. MAG's land (approximately 28.73 hectares) was the subject of discussions with SEGRO from Q3 2022, but MAG ultimately conducted a structured process and selected Prologis as its preferred development partner in May 2024 following a competitive process, with contracts exchanged in October 2024.</p>	<p>See Applicants' response to the same question [REP1-054] which cross refers to the Applicants' full response at paragraphs 1.16 – 1.24 of Appendix 5 of the DCO Applicant's Response to Relevant Representations [REP1-051D].</p>

<p>Consultee in requirements</p> <p>8.3.1 - In various requirements there is a requirement for consultation with a statutory body prior to the decision maker deciding whether to approve details pursuant to requirements. Could all statutory parties review the requirements and confirm whether consider that the current arrangements are appropriate. Should they wish to amend this, could they please set out where such a change should be made, and if requesting additional consultation explain why it is considered necessary.</p>	<p>In the event that compulsory acquisition powers are not granted, Prologis would have a relevant interest in the land affected by the DCO and should accordingly be included as a consultee in the requirements. Prologis requests that the Examining Authority considers this position when reviewing the adequacy of the current consultation arrangements.</p>	<p>The Applicants observe that the ExP's question was directed to statutory consultees and an interest in land would not confer statutory consultee status on the interested party nor make it appropriate for it to be a consultee on the discharge of requirements under a DCO.</p>
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<p>Dualling of the A453</p> <p>19.0.6 - At ISH1 there was discussion about the potential dualling of the A453 west of Finger Farm roundabout. Could LCC please set out: • what, if any, proposals have been drawn up for this section of road, providing drawings if necessary • any timetable for potential works or triggers for a requirement, and how land would be secured and funding for the works themselves provided The applicants are asked: • does the response have any implications in relation to your response to ExQ1Q2.0.6? Prologis and EMIA are asked to set out their understandings of this matter, along with any matters within the joint application which would impinge on that.</p>	<p>An illustrative design for the Joint Application demonstrates compatibility with the proposed dualling. The land controlled by Prologis/MAG, combined with existing highways land, is sufficient to accommodate the dualling scheme without requiring any third-party land. The maximum building footprints under the Joint Application terminate before the land needed for dualling, with a landscaping buffer included. A question is raised about the consistency of SEGRO's position: if SEGRO proposes to acquire Prologis/MAG Land through CA and then set it aside for future A453 dualling rather than for the development proposed in the DCO Application itself, that necessarily engages the question of whether such land satisfies the statutory test under section 122 PA 2008. Land set aside for a future highway scheme promoted by a local highway authority, for which no timetable exists and which does not form part of the DCO works, cannot properly be said to meet that test.</p>	<p>See Applicants' response to the same question in Appendix 2 above.</p>
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APPENDIX 13

RESPONSE TO SUBMISSIONS MADE BY EAST MIDLANDS INTERNATIONAL AIRPORT LIMITED AND EAST MIDLANDS AIRPORT PROPERTY INVESTMENTS (INDUSTRIAL) LIMITED

Response to written representations

1. INTRODUCTION

- 1.1. This is the Applicant's response to the written representation submitted on behalf of East Midlands International Airport Limited and East Midlands Airport Property Investments (Industrial) Limited (together "EMA") (**REP1-216D and 217D**).
- 1.2. This response addresses points made in the order in which they are made, cross referring to the response to Prologis where appropriate.
- 1.3. The headings and paragraph numbers directly correlate to those used in the EMA Written Representations (WR). The absence of a response to a paragraph does not signify acceptance of, or agreement with, its contents. It is either because no response is necessary or to respond would be to simply repeat responses elsewhere in this document.

3. EMA/PROLOGIS PLANNING APPLICATION

- a. – e. These paragraphs assert that the Joint Planning Application is a credible pathway to timely, policy compliant, delivery of logistics and commercial development (para a.) and that the Joint Application is significantly advanced towards determination and will be ready to be reported to committee in June/July (para d). The ExP is referred to the Applicant's response to section four of the Prologis WR (**DCO 7.12**), submitted at D2, which explains why this cannot be relied upon.

4. DCO APPLICATION

- a. – f. These paragraphs are substantially the same as paragraph 2.2 of the Prologis WR (**REP1-257D and REP1-267D**) and are responded to in the response to those representations (**DCO 7.12 Appendix 12 pages 6 and 7**) submitted at D2.

5. COMPULSORY ACQUISITION

- a. EMA adopt section 5 of the Prologis WR (**REP1-257D** and **REP1-267D** on compulsory acquisition to which the Applicant has responded in the response to those representations (**DCO 7.12 Appendix 12 pages 13 – 24**) submitted at D2.
- b. The primary purpose of the Active Travel Link (ATL) is, together with existing routes and the upgrade of footpath L57, to provide active travel connectivity to EMG2 from Kegworth and Castle Donington. So far as has been possible the route of the ATL follows abandoned former A453 carriageway alignments but this was not possible at the location of the A453 lay-by and hence the need for the ATL to overlap with a part of the Airport Trail.
- c. It is not correct to say, as is said, that all of the Airport Trail is “*privately owned and maintained by EMA*”. Approximately 1 km west of EMA is within the public highway and approximately 700m between EMA and EMG1 is in the Applicant’s ownership.
- d. – g. EMA query the need and likely use of the ATL in their response to ExQ1 7.0.3 (**REP1-218D**) on the basis of likely level of usage. At the minimum 2% target mode share for active travel there would be 88 cyclist trips per day (44 trips in each direction) and, given the likely locations of workers, the vast majority would be from north of EMG2 i.e. using the proposed ATL. This can be seen from the map on Page 22 of the STS (**APP-84**) which shows that the majority of EMG1 employees living within a cycling distance are based in Kegworth and Castle Donington.

Whilst para 9.5 of the STS (**APP-84**) sets a mode share target of 2% for active travel, the Applicant notes that this is a minimum. Para 9.4 states that 25% of the EMG2’s workforce live within a 60min cycle of the Scheme and para 9.5 states that “*There is the potential for [the 2%] to increase as more residential developments emerge within the vicinity of the site and as more off-road/segregated cycle infrastructure is introduced along the major roads, for example through the future East Midlands Combined Authority transport programme.*”

The Applicant therefore considers it to be an important for the EMG2 scheme to provide a good quality route between EMG1 and EMG2 which, together with the infrastructure provided by EMG1, other existing active travel infrastructure and the upgrade of L57, provides active travel connections from EMG2 to Castle Donington, Kegworth and beyond. The existing route east of the A453 is of a low standard with improvement to it complicated by the lay-by and users between EMG1 and EMG2 would need to undertake three crossings of the A453 (with several ‘hops’ over the different carriageways).

The ATL provision aligns with wider stakeholder aspirations for providing a link between EMA and Nottingham via Clifton, Ratcliffe, Kegworth, EMG1 and EMG2 for which initial work was undertaken around 2020 and included for an off-road facility west. As set out in the

EMG2 proposes the ATL would become part of National Cycle Route 15 which, together with Hyam's Lane, would fill part of the gap in this route that currently exists between Diseworth and Nottingham.

The northern end of the ATL connects into the existing pedestrian and cyclist infrastructure that was constructed as part of EMG1 which includes signalised crossings of the A453 and A6 to reach Kegworth, and connections through EMG1 to reach Lockington, Hemington and, with L57 being upgraded, Castle Donington.

The section of the ATL that runs close to the operational airfield is the length that is to be wholly within the existing A453 verge and follows a former alignment of the A453 carriageway. In so doing it:

- does not require work in close proximity to the EMA security fencing;
- runs along the levels of the former A453 carriageway and A453 highway verge as shown on Highway Plans long sections Sheet 3 (**APP-051D**);
- does not require lighting; and
- avoids interference with airport trail information boards and artwork

The Applicant is keen to continue discussion with EMA regarding the provision of the ATL.

Reasonable Alternatives

- i – j. These paragraphs raise substantially the same points as are raised in section 6 the Prologis WR (**REP1-257D and REP1-267D**) and are responded to in the response to those representations (**DCO 7.12 Appendix 12 page 24**) submitted at D2.

Viability

- k. – t. These paragraphs raise substantially the same points as are raised in the Prologis RR (**RR-24D and 28D**) and Prologis WR (**REP1-257D and REP1-267D**) and are responded to in the response to both those representations (**REP1-051D, Appendix 6** submitted at D1 and **DCO 7.12 Appendix 12** submitted at D2).

6. HIGHWAYS

- a.-l. These paragraphs raise substantially the same points as are raised in Section 6 of the Prologis WR (**REP1-257D and REP1-267D**) and are responded to in the response to those representations (**DCO 7.12 Appendix 12 pages 24 and 25**) submitted at D2.

a.-g. The response also asserts that the highway works proposed are “*over-specified*”. Reference is made to the Tesco case and “*buying and selling*” planning consents. It is not clear, however, on what basis EMA are asserting that the highway works proposed are over-specified. The works referred to are, presumably, the works to the SRN. National Highways are clear that the works are required to mitigate the impact of the DCO development. EMA have not produced any evidence to contradict that.

e. The transport modelling shows that the EMG2 development, inclusive of the proposed highway mitigation, would provide improved capacity on the Strategic Road Network compared to the baseline position. This is when considered cumulatively alongside other committed developments.

Accordingly, there would be no unacceptable impacts on passengers or cargo being transported from East Midlands Airport.

i – j Section 6.9 of Chapter 6 of the Environmental Statement (**AS-033**) carries out an assessment of the MCO traffic in isolation of the DCO. It confirms that the MCO traffic in isolation would not require any mitigation.

Further LinSig modelling has been carried out that assesses the MCO traffic (EMG1 Plot 16) at the A453/A6 Kegworth Bypass/EMG1 roundabout. The modelling confirms that there would be a negligible change in capacity and that no mitigation is required, as per the conclusions of the Transport Assessment. This document was submitted at Deadline 1 (**MCO 7.10¹⁸**). National Highways has advised that it is content with that assessment (see latest SoCG with NH submitted at Deadline 2).

It is not considered necessary to test the impacts of the MCO alongside the Joint Application given the level of movements involved from Plot 16 and that neither highway authority has required this of the Applicant.

8. OPERATIONAL IMPACTS AND AERODROME SAFEGUARDING

a.- q The Applicant notes the information provided in this section which will help inform its consideration of the appropriate protective provisions which EMA have now provided and can hopefully be the subject of discussion with EMA.

f. EMA make reference to their passenger activity, The PRTM model is a peak hour model that tests the operation of the highway network between 0800 to 0900 hours and 1700 to 1800 hours when traffic flows on the network are at their greatest.

¹⁸ Submitted at D1 but not on the Examination Library List

Whilst it is acknowledged that East Midlands Airport operates 24 hours per day, which could also be the case for occupiers of EMG2, total traffic flows on the network will be lower and therefore given the proposed mitigation will provide sufficient capacity at peak times, this will also be the case during all other times of the day.

The Skylink Derby – Leicester and Skylink Nottingham bus services stop at East Midlands Airport and operate 24 hour per day. Other services also operate up until midnight. Therefore, passengers to/from and staff working at East Midlands Airport who are travelling from Nottingham, Derby or Leicester have the opportunity to travel using the existing bus services

- g. Reference is made in this paragraph to disruption due to overnight roadworks. Whilst there will be temporary disruption during the construction of the proposed highway works, there will be management protocols in place to limit the impacts on other road users as far as possible.

Significant works will be restricted to night time hours when traffic levels are lower and during those times management measures will ensure that the operation of the network is not significantly impacted. Details are presented in the Construction Traffic Management Plan (CTMP), appended to the Construction Environmental Management Plan (CEMP) which a revision of which has been submitted at Deadline 2 (**AS-027D**).

Responses to ExQ1		
ExQ	Interested Party's Response	Applicants' Response
<p>1.2.8</p> <p>20% advanced manufacturing floorspace</p> <p>Paragraph 3.2.7 of chapter 3 of the ES [AS-025] states that the development would primarily comprise logistics buildings with up to 20% of the floorspace capable of being used for 'advanced manufacturing'. Please can the applicants clarify how this 20% limitation is secured in the dDCO and explain the</p>	<p>EMA welcomes the ExQ's question on this matter and reserves the right to comment further on the applicant's reply.</p> <p>This issue is closely related to Q1.2.9 and the confused description of use class(es) of the buildings that are being applied for as part of EMG2. The inclusion of advanced manufacturing is likely to generate more trips than a standard B8 land use.</p> <p>The following sites were analysed to inform this assessment:</p> <ul style="list-style-type: none"> • Tees Advanced Manufacturing Site • Rotherham Advanced Manufacturing Site • International Advanced Manufacturing Park (IAMP) 	<p>The Transport Assessment has assessed 20% of the development as B2 use. Higher trip rates have been agreed with the Transport Working Group for the B2 use which were based on the latest version of TRICS at that time. Therefore, the transport modelling has assessed an 80% B8 and 20% B2 development in line with the land uses being applied for in the DCO.</p>

<p>environmental effects in the event this 20% limitation is exceeded. For example, why is the limitation important, does advanced manufacturing generate different environmental effects in relation to traffic, noise and disturbance compared to storage and distribution?</p>	<p>– Washington, Sunderland The above sites have been chosen as a comparator based on being advanced manufacturing developments that are close to the strategic road network, similar to EMG2. Although it is noted that each application utilised a different method for assessment of trip generation, including direct numbers of staff from the occupier, surveys of a nearby proxy site, and also a first principles approach, all the sites went through a consultation and agreement process with National Highways. They all resulted in significantly higher trip rates than a B8 use. As such, it is the view of EMA that a sensitivity test for the 20% of the development that could be provided for advanced manufacturing should be undertaken by the</p>	
<p>1.2.9 Permitted development rights Are there permitted development rights that would allow a change of use from logistics or advanced manufacturing to another use that might give rise to other environmental effects to those assessed that would not be compatible with existing neighbouring development? Consequently, should the dDCO include a provision limiting specific permitted development rights?</p>	<p>EMA submits that it cannot clearly be deduced what use class(es) the future planning units or the development as a whole fall into, or whether the development would be sui generis. As a result, it follows that effective PD rights from the Use Class Change Order are unclear. The application confuses planning terminology and mixes up B2 and B8 uses that are being applied for. It also then includes a generic “up to 20% advanced manufacturing floorspace”. Therefore, it is unclear as to how this would relate to the precise planning unit, for example whether the advanced manufacturing element would be an ancillary use or create a mixed used unit. Given this, it follows that any harm arising is unknown at present. Clarity is needed as to what is actually being applied for and that the necessary assessments are consistent with the development</p>	<p>See Applicants' response to the same question [REP1-054].</p>

	<p>proposed or are on a fully worst-case basis. To ensure no risks to aerodrome safeguarding arise from any possible alterations to buildings that may not comprise development or be otherwise permitted development, discussions are ongoing with the Applicant in relation to draft Protective Provisions for inclusion in the draft DCO. These would cover material alterations that could impact flight safety.</p>	
<p>1.3.2</p> <p>Planning application on northern part of EMG2 site</p> <p>Could the applicants and Prologis/ EMIA please provide details, including a plan, showing Please refer to Prologis' response to this question and their Written Representation which provide detail as to the compatibility/ non-compatibility of the two schemes. compatibility/ non-compatibility of the proposed development and that subject to application 24/00727/OUTM. They should set out why they hold this position. The ExP is particularly interested where any proposals would mean that the two developments would not physically be able to be provided.</p>	<p>Please refer to Prologis' response to this question and their Written Representation which provide detail as to the compatibility/ non-compatibility of the two schemes. compatibility/ non-compatibility of the proposed development and that subject to application 24/00727/OUTM. They should set out why they hold this position. The ExP is particularly interested where any proposals would mean that the two developments would not physically be able to be provided. EMA also expands on this in our own Written Representation.</p>	<p>See Applicants' response to the same question [REP1-054].</p>
<p>1.4.2</p> <p>Community Park</p> <p>The ExP is seeking to understand how</p>	<p>The serious potential for aerodrome safeguarding risks arising from the proposed community park has been raised with the Applicant by EMA. At the current time, specialist assessment is being undertaken in respect of the potential for the</p>	<p>See Applicant's response to the same question [REP1-054].</p>

<p>attractive the community park would be as an amenity. Therefore, can the applicants provide the following information:</p> <ul style="list-style-type: none"> • isophones (sound levels) across the whole of the park with the proposed development in operation based on the worst case analysis assessed in the ES • the areas of the site where gradients would be greater than 8% (1 in 12) – contours across the whole area should be shown (this may need to be on a separate drawing if it would result in the drawing being too cluttered) – or which could only be accessed by travelling through such areas • whether the surface water storage areas would be fenced • the months and proportion of the year the surface water storage areas are unlikely to be accessible due to wetness, including boggy ground conditions • those areas where it would not be desirable for the public to visit for ecological and biodiversity reasons (that is, buffer zones), giving any temporal or other restrictions • what assessment has been undertaken of increased human activity in the proximity of the badger setts during the operational phase, and how has this been quantified? <p>This information should also be provided graphically on a plan of the community park. Where areas are identified, the area in square metres, should also be provided; a table setting out the different areas of the proposed park should be</p>	<p>Community Park to result in increased bird activity and the risk of an increased bird hazard and associated aircraft strikes with operating at East Midlands Airport and aircraft flying in the vicinity. Elements of the parkland within the Community Park that could contribute to increasing bird activity comprise but are not limited to; the landscaping, water bodies (either permanent and/or surface water management), littering arising from food consumption and feeding of birds by users and visitors to the Community Park. Littering near airports, especially food waste, creates a severe bird strike risk by attracting large flocks of scavenging birds (gulls, starlings, corvids) to foraging areas. These birds are often attracted to garbage, litter or open refuse areas.</p> <p>A comprehensive and detailed bird hazard management plan will be needed for this part of the proposed development.</p>	
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<p>submitted. If the applicants wish to provide a commentary to this information they may do so. The applicants should prepare a separate confidential report for answers relating to badgers. The ExP would ask the applicants send a copy of the confidential report direct to NWLDC and NE for their consideration.</p>		
<p>1.4.3</p> <p>Community Park</p> <p>Is the size of the community park sufficient to create a meaningful buffer between the EMG2 main site and neighbouring residential development, whilst delivering the multitude of proposed functions (recreation, landscape and ecological mitigation etc.)? To this end, could the community park be made bigger, at the expense of industrial and logistics floorspace, if it was determined that its current size would place unworkable constraints on its intended functions? The ExP also invites comments from NWLDC on this matter.</p>	<p>The potential bird hazard to the operation of aircraft at East Midlands Airport and aircraft operating in the vicinity is an important aerodrome safeguarding consideration. Until such time that the full Aerodrome Safeguarding assessments have been completed, there is a potential risk that the Country Park at its proposed size could represent an increased risk to safe aerodrome operations. A larger park could compound this risk. Further specialist advice is being obtained from East Midlands Airport's bird hazard consultants, and discussions are underway with the Applicant over ecological mitigation and the drafting of appropriate Protective Provisions.</p> <p>Please also refer to our answer to Q1.4.2.</p>	<p>See Applicants' response to the same question [REP1-054]. In addition, it is understood that NWL in their Local Impact Report have confirmed that they are content with the size of the Community Park.</p>
<p>7.0.3</p> <p>Plot 2/6</p> <p>Could the applicants explain why they would need to CA the land on the Active Travel Link (Work No. 14, Plot 2/6) rather</p>	<p>The route of the proposed Active Travel Link broadly follows part of the existing EMA Airport Trail, which is a permissive route for pedestrians only. Appendix 1 to our Written Representation illustrates the existing route of the Airport Trail and that proposed through the ATL.</p> <p>EMA is not satisfied that there is a need for the</p>	<p>The Applicants note that at the minimum 2% target mode share for active travel there would be 88 cyclist trips per day (44 trips in each direction) and given the likely locations of workers the vast majority would be from north of EMG2 i.e. using the proposed Active Travel Link (ATL). This can be seen from the map on</p>

<p>than just seeking rights to permit the delivery of the route?</p>	<p>Active Travel Link.</p> <p>The applicants are proposing a 2% active travel mode share target (Paragraph 9.5, Sustainable Transport Strategy (DCO 6.6B)).</p> <p>Table 9-1 in DCO 6.6B shows that the number of employees on site at EMG2 would range from 600 in year 1 to 2220 in year 5 and thereafter. The active travel mode share target therefore ranges from 12 trips daily in year 1 to 44 trips in year 5.</p> <p>Logically, it must be right that not all of that 2% would use the Active Travel Link.</p> <p>Further, it seems unrealistic to expect workers to cycle along an unlit track in the hours of darkness, especially in winter months when the surface would not be gritted during freezing spells. It will be an unattractive route at those times for those reasons. It is also unclear how easy it will be for cyclists to access the northern end of the Active Travel Link from the wider network to Kegworth and Castle Donington. The applicants have not explained whether the need for Work No 14 is reduced or removed if their proposed cycle link to Castle Donington is not consented.</p> <p>EMA is therefore not convinced how the Active Travel Link could be used by users of EMG1 to reach EMG2 in a safe and efficient manner. Even if users of the Active Travel Link did seek to move between EMG1 and EMG2 in the manner which the Applicant expects, it is not clear how many users would choose this route over and above the bus service that the Applicant is placing great weight upon as part of its overall benefits package to justify the need for compulsory acquisition powers.</p> <p>Accordingly, in EMA's view the need for compulsory acquisition of this plot has not been established by</p>	<p>Page 22 of the STS (Document [APP-084] which shows that the majority of EMG1 employees living within a cycling distance are based in Kegworth and Castle Donington.</p> <p>Whilst para 9.5 of the STS [APP-084] sets a mode share target of 2% for active travel, this is a minimum. Para 9.4 states that 25% of the EMG2's workforce live within a 60min cycle of the Scheme and para 9.5 states that "<i>There is the potential for [the 2%] to increase as more residential developments emerge within the vicinity of the site and as more off-road/segregated cycle infrastructure is introduced along the major roads, for example through the future East Midlands Combined Authority transport programme.</i>"</p> <p>The Applicants therefore consider it to be an important for the EMG2 scheme to provide a good quality route between EMG1 and EMG2 which together with the infrastructure provided by EMG1, other existing active travel infrastructure and the upgrade of L57, provides active travel connections from EMG2 to Castle Donington, Kegworth and beyond.</p> <p>The existing route east of the A453 is of a low standard with improvement to it complicated by the lay-by and users between EMG1 and EMG2 would need to undertake three crossings of the A453 (with several 'hops' over the different carriageways).</p> <p>The ATL provision aligns with wider</p>
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	<p>the Applicant, as the benefit to be achieved by the Active Travel Link does not outweigh the interference with EMA's property rights. Even if a need for the Active Travel Link can be proven, EMA does not accept that the Applicants need to CA the land rather than seeking rights to permit the delivery of the route. This is an alternative that has not been properly explored and which further undermines the case for compulsory acquisition.</p> <p>Without prejudice to its position on the question of need for Work No 14, EMA is in dialogue with the Applicant about ways in which the Active Travel Link could be delivered without the need for the Applicant to own the freehold of Plot 2/6.</p>	<p>stakeholder aspirations for providing a link between EMA and Nottingham via Clifton, Ratcliffe, Kegworth, EMG1 and EMG2 for which initial work was undertaken around 2020 and included for an off-road facility west of the A453.. As set out in the EMG2 scheme proposals the ATL would become part of National Cycle Route 15 which, together with Hyam's Lane, would fill part of the gap in this route that currently exists between Diseworth and Nottingham.</p> <p>The northern end of the ATL connects into the existing pedestrian and cyclist infrastructure that was constructed as part of EMG1 which includes signalised crossings of the A453 and A6 to reach Kegworth, and connections through EMG1 to reach Lockington, Hemington and, with L57 being upgraded, Castle Donington.</p> <p>The Applicants are keen to work with EMA to secure the delivery of the ATL by agreement rather than through use of CA powers.</p>
<p>7.0.7</p> <p>Land north of Hyams Lane</p> <p>Could the applicants, Prologis and EMIA set out their understanding as to how the land north of Hyams Lane was sold by the previous owners. That is, was it offered for private sale, by tender, by 'best and final offers' or any other process</p>	<p>EMA owns a large proportion of the land to the north of Hyam's Lane and to the east of Grimes Gate. The land immediately to the north of the Moto Donington Park Services was acquired in the 1990's by National Express, the former owner of the airport, this land was included in the acquisition of East Midlands Airport by MAG in 2001. The remainder of the EMA land was acquired in 2010 as part of the auction sale of the agricultural Langley Estate (elements of Old Hall and Cross Farm). As the sale</p>	<p>The Applicants note that EMA have not answered the question in respect of the acquisition of interests by developers in the land north of Hyam's Lane but have confined themselves to the historic acquisition by MAG. Instead, they have deferred to Prologis. This seems curious since Prologis were not involved in the site until 2024 and discussions</p>

<p>such as the parties direct approach to the owner? The ExP would appreciate information as to whether the marketing, if any, related to potential options agreements or only for outright sale. The ExP would also appreciate the parties understandings of the timeframes for any such sale. The parties should also submit any documents they may have to support their positions.</p>	<p>was facilitated by auction, this was an outright sale with no ability to take an option agreement from the seller. It is unknown whether SEGRO participated in the auction process at the time. For information in respect of the Freeport development of this site, please see Prologis' response to this question.</p>	<p>between EMA and the Applicant began in 2020 – of which EMA can provide direct information.</p>
<p>8.1.4</p> <p>Article 38 – Felling or lopping of trees and removal of hedgerows</p> <p>Could the identified parties please comment on the distance from the Order limits of 25 metres 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 will need to be fully EMA would object to any felling or lopping of trees and the removal of hedgerows which falls on East Midlands Airport land north of the A453 (Ashby Road). The belt of landscaping that forms the southern boundary of the East Midlands Airport Operational Area as shown in the North West Leicestershire Local Plan and it provides valuable screening of the operational airport. The section of this landscape belt</p>	<p>EMA would object to any felling or lopping of trees and the removal of hedgerows which falls on East Midlands Airport land north of the A453 (Ashby Road). The belt of landscaping that forms the southern boundary of the East Midlands Airport Operational Area as shown in the North West Leicestershire Local Plan and it provides valuable screening of the operational airport. The section of this landscape belt justified both in response to this question and in the EM. Could NWLDC confirm whether presently there are any trees protected by tree preservation orders within 25m of the Order limits? Should this situation change, could NWLDC ensure this information is submitted into the examination. Is any party 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 party holds that view. between the main airport entrance and the entrance to Pegasus Business Park is subject to the</p>	<p>The power under Article 38 can only be used for the specific purposes stated in paragraph (1). The power is subject to the safeguards in paragraphs (4) and (5) which the Applicants consider give sufficient protection to EMA. Notwithstanding the above the Applicants have proposed amending reducing the 25m distance to 15m and this is included within the revised dDCO [PDA-004D] submitted at Deadline 2.</p>

<p>justified both in response to this question and in the EM. Could NWLDC confirm whether presently there are any trees protected by tree preservation orders within 25m of the Order limits? Should this situation change, could NWLDC ensure this information is submitted into the examination. Is any party 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 party holds that view.</p>	<p>North West Leicestershire Castle Donington (Ashby Road) Tree Preservation Order 2005 (Council Reference T381).</p>	
<p>8.4.2</p> <p>All parts</p> <p>All those who would benefit from the protective provision in the dDCO are requested to fully review them. Should the protective provisions not be agreed, then the party is to provide their own set of protective provisions both in ‘clean’ and ‘tracked change’ from that submitted by the applicant. Furthermore, the party needs to explain on a provision-by-provision basis why the drafting provided</p>	<p>The current version of the Protective Provisions in Part 6 of Schedule 13 of the dDCO are not agreed. EMA are working with the Applicant regarding revised Protective Provisions for the benefit of East Midlands Airport. Please see Appendix 2 of our Written Representations for the current draft Protective Provisions in discussion with the Applicant. Owing to the extensive differences between the protective provisions as proposed by the applicant and EMA respectively, a tracked changes version was not thought to be helpful to the ExP so has not been provided.</p>	<p>The Applicants have now received the draft protective provisions from EMA at Deadline 1 (REP1-216D and 217D) and will review them and discuss with EMA.</p>

<p>by the applicants is unacceptable and why its drafting is to be preferred.</p>		
<p>9.0.5</p> <p>Potential bird strike</p> <p>Could the applicants please explain what specific analysis has been undertaken in relation to the risk of bird strike from the creation of “basins for surface water attenuation” in Work 6A.</p>	<p>EMA’s own assessment of the potential bird hazard risk associated with the proposed surface water attenuation is being undertaken by East Midlands Airport’s specialist independent advisor.</p> <p>From the available materials, the concept of drainage attenuation appears acceptable, providing that East Midlands Airport Safeguarding receives assurances regarding how frequently the attenuation areas will be wet or filled with water and the drain down times. For reasons of aircraft safety in respect of aircraft bird strike, any permanent open water should not be permitted in this location.</p> <p>EMA are in ongoing discussions with the Applicant over ecological mitigation and its impact on aerodrome safeguarding.</p> <p>Protective Provisions are being drafted to ensure the development is acceptable from an aerodrome safeguarding perspective.</p>	<p>See Applicants' response to the same question [REP1-054].</p>
<p>13.0.3</p> <p>Scoping and assessment of risks</p> <p>Are you satisfied with the scoping and assessment of MAD in chapter 20 of the ES [AS 071] and appendix 20A [APP-198]?</p>	<p>EMA is not satisfied with the scoping and assessment of MAD in Chapter 20 of the ES and Appendix 20A.</p> <p>The Environmental Statement and associated supporting material must fully consider, manage, and mitigate any hazards or the safety of operations at East Midlands Airport, given the location of the proposed development.</p> <p>Chapter 20 of the Environmental Statement states that the baseline data was collected using a desk-based approach (Para 20.2.7). East Midlands Airport is clearly within the Study Area and Table 1 of Environmental Statement Appendix 20A (Major</p>	<p>A revised version of the MAD Chapter is being submitted at Deadline 3 and Appendix 20A addresses EMA’s concerns regarding the fuel storage facilities.</p> <p>The Applicants have now received the draft protective provisions from EMA at Deadline 1 (REP1-216D and 217D) and will review them and discuss with EMA.</p>

	<p>Accidents and Disasters Long List) identifies (and scopes out) potential effects on fuel storage facilities. It is not clear whether or if so how, the three aviation fuel storage facilities within the East Midlands Airport site have been considered in the Environmental Statement.</p> <p>It should be highlighted that in the assessment of Major Accidents and Disasters in the Environmental Statement, the proposed Management Strategy at para states 20.2.35 states 'Airports and airfields within approximately 13km (the legal distance of the safeguarding zone for licensed airports in the UK)' which is incorrect. The distance is 13km for the assessment and management of aviation bird hazard. The overall airport safeguarded area is considerably larger, 15km for the protection of the airport's Obstacle Limitation Surfaces, and up to 30km for wind turbines.</p> <p>EMA require a comprehensive set of Protective Provisions in relation to the safe operation of the airport, aircraft operating at the airport or in its vicinity, and the safety of passengers, airport employees, visitors, and the wider community.</p>	
<p>13.0.15</p> <p>Aerodrome safeguarding standards</p> <p>EMIA [RR-013D] and [RR-049M] sets out that aerodrome safeguarding standards have been updated since the EMG1 DCO was made. Please can the applicants explain how they intend to address these updates in the dDCO and dMCO? EMA is in ongoing discussions with the</p>	<p>EMA is in ongoing discussions with the Applicants over ecological mitigation and its impact on aerodrome safeguarding.</p> <p>Protective Provisions are being drafted to ensure the development is acceptable from a safeguarding perspective.</p>	<p>The Applicants have now received the draft protective provisions from EMA at Deadline 1 and will review them and discuss with EMA.</p> <p>Having regard to the experience of development on EMG1 the Applicants do not see the need to review the protective provisions for EMG1 but will consider any specific justification provided by EMA</p>

<p>Applicants over ecological mitigation and its impact on aerodrome safeguarding. Protective Provisions are being drafted to ensure the development is acceptable from a safeguarding</p>		
<p>19</p> <p>Traffic and Transport</p>	<p>As per our previous comments contained within our Relevant Representation, EMA is awaiting a robust up-to-date TA which uses the 2023 PRTM platform and tested to LCC/NH's satisfaction, alongside more detailed highway designs which are capable of approval by LCC and National Highways and any required safety assessments to confirm that the highway design would be safe if constructed. We reserve the right to respond on all matters of traffic and transport once the information has been made available.</p>	<p>EMA suggest that a complete highway package was not part of the application. however, it is important to understand that the constant references in submissions to the absence of PRTM 2023 modelling in the application overlook the fact that the proposed development and mitigation was modelled using PRTM 2019 and a completed core PRTM 2019 assessment was included in the application submission. It was PRTM 2019 which was the relevant model at the time of undertaking the work. It is not clear from the EMA's submissions whether they have familiarised themselves with the modelled outputs and consequent assessment contained in the submitted application.</p>
<p>19.0.6</p> <p>Dualling of A453 west of Finger Farm Roundabout</p> <p>At ISH1 there was discussion about the potential dualling of the A453 west of Finger Farm roundabout. Could LCC please set out: • what, if any, proposals have been drawn</p>	<p>As part of developing the evidence base for the Joint Application, an illustrative design has been prepared for the layout of a dual carriageway going the length of the northern boundary of the application side between the A453 Finger Farm roundabout (to the east) and the signalised junction of the A453 and airport access (to the west). Please refer to Prologis response and the relevant plan attached. The layout demonstrates how the Joint Application proposal would allow land currently controlled by</p>	<p>The Applicants' traffic modelling work for EMG2 has demonstrated that dualling of the A453 is not required as mitigation for EMG2. It is understood that there might be a potential long term need when other development and growth is taken into account for dualling between the A453 Hunter Road / EMG2 access roundabout and A453 Finger Farm</p>

<p>up for this section of road, providing drawings if necessary</p> <ul style="list-style-type: none"> any timetable for potential works or triggers for a requirement, and how land would be secured and funding for the works themselves provided <p>The applicants are asked:</p> <ul style="list-style-type: none"> does the response have any implications in relation to your response to ExQ1Q2.0.6? <p>Prologis and EMIA are asked to set out their understandings of this matter, along with any matters within the joint application which would impinge on that.</p>	<p>Prologis/MAG to be set aside for the purposes of A453 dualling. No land in any other ownership would be required to deliver this proposal. As such, the Joint Application would not prejudice the dualling of the A453, if necessary, at a later date.</p> <p>Prologis is working with Leicestershire County Council as part of the Joint Application to consider how the proposed site access for that scheme and the existing roundabout junction at the A453/ Beverley Road would integrate as part of a continuous dual carriageway section to a point west of the Joint Application site, where it would tie back into the existing highway network.</p> <p>Prologis has received initial feedback from LCC on these proposals. Whilst commentary on the precise layout and design details would be expected in the ordinary course of further development of the scheme, these proposals clearly demonstrate how the dualling can be delivered in combination with the Joint Application.</p> <p>Transport modelling for the Joint Application and the DCO are ongoing/ outstanding and therefore EMA reserves the right to comment further upon receipt of the completed highways assessment following D1.</p>	<p>roundabout but it is not likely to be required to the west of the A453 Hunter Road / EMG2 access roundabout. At the request of LCC the Applicant has put forward proposals for safeguarding of land to enable dualling between the A453 Hunter Road / EMG2 access roundabout and A453 Finger Farm roundabout.</p> <p>To the west of the A453 Hunter Road / EMG2 access roundabout the Applicants note that there is a wide corridor north of the A453 that could be used for dualling if required for whatever reason. In any event, to dual up to the A453 / EMA access junction, land would need to be acquired from EMA by the promoter of any such scheme as can be seen from the drawing submitted by Prologis.</p>
<p>19.0.09</p> <p>Departures from highway standards</p> <p>The applicants have set out various departures from standards for the highways to be provided (see appendices 26 and 27 of the TA [APP 082]). Could NH and LCC please formally consider whether there are likely to be any issues</p>	<p>Without a fixed alignment we are unable to assess if all the departures have been captured and the level of approval provided, as we do not have the complete trail of information to assess this. We also note that there are a different number of departures reported across the documents. We would ExP notes that once in principle consent has been granted the Courts have indicated that it would not be possible to refuse consent at the detailed design stage. benefit from access to the applicant's</p>	<p>Within the DCO Application, the Applicants provided a comprehensive appraisal of the highway design against relevant standards, at Appendices 26 and 27 of the TA. Following conclusion of the traffic modelling work, liaison with the highway authorities and Stage 1 RSA these have been updated and have been submitted at Deadline 1.</p>

<p>in approving details post-consent? The ExP notes that once in principle consent has been granted the Courts have indicated that it would not be possible to refuse consent at the detailed design stage</p>	<p>submissions to National Highways and the Local Authority to allow detailed comment.</p>	<p>As well as providing a comprehensive review of the scheme design, they provide the justification and status of the departures from standard. All departures have been approved with the exception only of five signing and signalling departures.</p>
<p>19.0.14</p> <p>Traffic modelling</p> <p>The applicants' analysis has been undertaken based on AADT figures. Could a sensitivity analysis be undertaken on a AAWT base, with comparison between the two, so that the effects at the weekend can be understood. The ExP is seeking to understand this on the basis that there may be greater amenity effects at the weekend from changes in traffic flow?</p>	<p>The standard ES methodology assumes the assessment is based on 24 AADT data however this request will provide an assessment of the impact without any weekend traffic.</p> <p>It is also noted the updated 2023 IEMA fear and intimidation guidance quantifies the impact based on an hourly average across the 18hr AAWT traffic levels and should not include the weekend traffic (AADT).</p>	<p>EMA are correct in that the standard ES methodology requires an assessment using 24-hour AADT data. The assessment undertaken in the ES Chapter is therefore compliant. This presents a worst-case assessment because baseline traffic using AADT is lower (as traffic during a weekend is typically lower) meaning the percentage increase in development traffic is higher.</p> <p>An assessment of fear and intimidation using AAWT data would not change the overall conclusions and would actually show a lower impact than using 24 AADT data.</p>

APPENDIX 14

RESPONSE TO SUBMISSIONS MADE BY LITTON (DONINGTON) LTD

Written representations		
No.	Matter	Applicants' Response
1.	<p>General support for EMG2 but has concerns that the development of its own site is not prejudiced in any way particularly regarding site access and undertaking off site highway works, especially the timing of such.</p> <p>Highlight the following questions: Q2.10, Q7.0.5, Q8.0.1, Q8.1.2, Q12.0.12, Q14.0.6, Q19.0.6, Q20.0.6, However, their concerns are not limited to these as it is a more general worry over conflict of works.</p>	<p>The Applicants welcome support for EMG2.</p> <p>The Applicants further note the concerns raised. Correspondence and a meeting with the interested party about their concerns has already taken place and the Applicants will continue dialogue to try and resolve any outstanding concerns.</p>
2.	<p>Wishes to ensure that its development is not impinged by SEGRO's highways works and that continued and uninterrupted access off Finger Farm Roundabout is safeguarded along with its ability to undertake the offsite highways work. This could be mitigated by SEGRO including and undertaking these works as part of and within their highways works.</p>	
3.	<p>Acknowledges that there has been correspondence / a meeting between SEGRO and Litton, including regarding details of highways works to be undertaken by both parties.</p>	

4.	Progress has not been made in putting into place a Statement of Common Ground, but Litton considers it important to finalise such a statement.	The Applicants are agreeable to progressing a Statement of Common Ground with the interested party.
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APPENDIX 15

RESPONSE TO SUBMISSIONS MADE BY JOHN RAYMOND SUTTON

Written representations		
No.	Matter	Applicants' Response
N/A	<p>“Pressures on EMA itself as the key inland Freeport partner which result from the location of the EMG1 site, the EMG2 site....”</p> <p>Is the Principle of Development on this site and this location predicated on direct air freight handling? The EM Freeport has EMA as its core strategic transport link, so how have EMA’s current and future development needs, now impossible on the North side of the runway, been factored in to the dDCO? If Maersk or other key partner have commercial interests in air freight, should that be declared?</p>	<p>Whilst location is a key consideration with any proposed development, the principle of development on the EMG2 Main Site is not predicated on direct air freight handling.</p>
N/A	<p>“The anomalous nature of this nationally disproportionate DCO application in terms of size, importance, economic reach and coherence.”</p> <p>Notwithstanding the recent section 17 letter, how can the DCO be decided fairly and independently of the Freeport tax site expiry date, generally and particularly in relation to National Infrastructure and the Strategic Road Network(SRN) when the necessary work to this section of the M1, including J23A and J24 did not feature in Road Improvement Strategy 3 (RIS 3) dated March 26th 2026</p>	<p>The case for the scheme and other key considerations is set out in the Applicants' Planning Statement [APP-222].</p>
N/A	<p>“Industry and speculator driven view of demand for strategic warehousing, the conflicts with local planning and the exacerbation</p>	<p>The planning considerations relevant to the DCO Application are set out in the Applicants' Planning Statement [APP-222].</p>

	<p>of constraints on this pinch point in national strategic transport infrastructure that has failed to attract national funding under successive governments.”</p> <p>The NWLDC emerging Local Plan, still at Regulation 18 stage, and the Leicester and Leicestershire SoCG on strategic warehousing are predicated by a report from ICENI which gives no site specific justification for this site. ICENI set out a massive commercially driven target but otherwise merely set out a generic case for one form of corridor distribution of sites. There is no testing of other alternatives, to justify the final recommendation. The report failed to factor in suitable sites just beyond the Leicestershire county boundary that are potentially better located, less likely to result in significant environmental and traffic impacts and thus are more likely to be deliverable than this site. Allowing the county boundary to form a firm redline for the evaluation, rather than considering the relative merits of sites in a buffer zone 2-3 miles beyond is simply bad planning practice and poor analysis that does not merit the weight the promoting parties are seeking to ascribe to it. To state the obvious, economic, commercial and business rate gains are not material planning criteria.</p> <p>It is pertinent to ask whether the Applicant has so far provided sufficient evidence to demonstrate that there is no other better or equivalent site available. Has the Applicant so far offered a sufficiently detailed assessment of all the factors that would normally be considered in a site specific appraisal to demonstrate that this site is both needed and suitable for the purpose proposed? Further, can all impacts be mitigate appropriately within the overall cost envelope of the scheme? There has been no material evidence presented on scheme finances or viability to demonstrate that the kind of traffic and public transport measures, landscaping, noise suppression, drainage, biodiversity provision etc that will be required are</p>	<p>The Applicants also refer to their post hearing submissions on need and alternatives [REP1-052].</p>
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	<p>capable of being funded by the Applicant alone even if National Highways support for a partial J24 scheme only should be forthcoming?</p>	
<p>N/A</p>	<p>“The continuing failure to plan warehouse capacity and strategic priorities across three counties and four Freeport site, all driven by the relative demarcation of separate planning regimes in zones either side of the nearby River Trent, a situation made worse for every month that Leicestershire is outside the Combined East Midlands Mayoral Authority (EMCCA)”</p> <p>I note that:</p> <p>The Principle of Development on this site has not been established in the NWLDC Local Plan and that this site and other nearby sites were designated as being suitable for strategic warehousing over a year after the Regulation 18 stage and as recently as Nov 19th 2025.</p> <p>Although the designation of EMCCA as a Spatial Planning Strategy area has not yet been confirmed by MHCLG, it would be appropriate for EMCCA to take part in the Examination as a statutory consultee.</p> <p>The emerging Leicester and Leicestershire SoCG on strategic warehousing does not refer to the consideration of sites outside the County boundary. Yet in the period 2021-24 NWLDC was a key player in the East Midlands Development Company as follows (source NWLDC website)</p> <p>“Supported by the Midlands Engine, it is driving the transformation of three sites:</p> <ul style="list-style-type: none"> • The East Midlands Airport area (in North West Leicestershire) 	<p>The planning case for the DCO Application are set out in the Applicants' Planning Statement [APP-222].</p>

	<ul style="list-style-type: none"> • The Ratcliffe-on-Sour Power Station area (in Rushcliffe, Nottinghamshire) • Toton and Chetwynd East Midlands Hub (in Broxtowe, Nottinghamshire)” 	
N/A	<p>“The unproven case regarding the success of the EMG1 railhead, its unnecessary close proximity to EMA, current freight terminal usage, cargo-miles travelled and independent cargo-journey analysis across all EMG1 users , and stated overall Freeport objectives,(skills, manufacturing etc)”</p> <p>I note the following quoted reference in the Leicester and Leicestershire strategic warehousing SoCG to the Secretary of State’s refusal of the Hinckley RFI</p> <p>Under the section devoted to the retention in of the Hinckley Rail Freight Interchange option “..DCO...refused ..insufficient transport modelling....impacts at M1 J21 and M69 J3..highway safety impacts on village of Sapcote” Referring to current need and the retention of the Hinckley option I note the following “Proposals for solely road-based ..B8...would undermine the identified need for rail-based strategic B8 floorspace...” This seems to adopt an either/or approach rather than giving detailed attention to an analysis of why road based warehouses proliferate as a result of market demand along the M1 and other similar corridors with no guarantee that the benefits of rail are being realised and regardless of the capacity of the Highways network</p>	The comments relating to the Hinckley RFI proposal are not relevant to the DCO Application.
N/A	<p>“The piecemeal and premature approach to public sector control of Highways modelling that is built in to the application but still unresolved, having failed so far to integrate long term local and national need across three counties, or to involve local communities.”</p>	Extensive modelling and cost analysis has been undertaken. The Applicants have confirmed that it has sufficient resources to deliver the DCO Scheme [APP-020D]. The Applicants have further provided evidence that the DCO Scheme is viable [REP1-027D].

My advisor writes: “Road access- if National Highways and the local Highways authorities in the three counties have not completed modelling and the costs are not understood, how is it possible to form a view on whether the site can be adequately accessed and the scheme is viable? If the scheme cannot cover the surface access costs then there needs to be a TEE appraisal, BCR assessment and full subsidy case to justify any third party public investment in enhance transport links. Moreover, if the justification for the site in does relate in part, or in whole, to the airport then it is established policy that the airport or its development partner pays in full

TEE (Transport Economic Efficiency) appraisal and BCR (Benefit-Cost Ratio) assessment are central components of transport business cases, primarily in the UK, designed to evaluate the value for money of transport projects. They are rooted in HM Treasury Green Book principles, ensuring projects are economically, socially, and environmentally sustainable. in this respect.

APPENDIX 16

RESPONSE TO SUBMISSIONS MADE BY DERMOT RYAN

Written representations		
No.	Matter	Applicants' Response
N/A	Road system will grind to a halt.	See Chapter 5 of the Environmental Statement relating to Traffic and Transportation matters [AS-032].
N/A	Kegworth will be virtually surrounded by warehouses.	The Applicants note the response.
N/A	Air quality will be further impaired.	See Chapter 5 of the Environmental Statement relating to Air Quality matters [AS-037].
N/A	It is likely that flooding will increase. Many properties still affected by poor drainage after the bypass was built, with no in taking ownership of the problem.	The Applicants refer to their response to this matter set out in response to the interested party's relevant representations [REP1-051D].

ANNEX 2A


**RESPONSE TO LCC WRITTEN REPRESENTATIONS – TECHNICAL
NOTE DATED 25 MARCH 2025**

Leicester County Council



Date: 25th March 2025

Via Email

BWB Reference: 

EAST MIDLANDS GATEWAY PHASE 2 CONSULTATION
TECHNICAL NOTE: RESPONSE TO LCC COMMENTS ON WASTE AND MATERIALS

Thank you for meeting with us to discuss the above proposed Nationally Significant Infrastructure Project (NSIP) on 24.03.2025.

This Technical Note has been prepared in response to formal comments taken from Leicestershire County Council ('LCC') in respect of Waste and Material matters for the proposed East Midlands Gateway Phase 2 ('EMG2') on 13th March 2025. It aims to address these matters and assist with seeking agreement on the scope and methodology of Chapter 18 of the Environmental Statement. Responses to each comment have been provided in **Table 1-1**.

Addressing a key concern, the initial Chapter submission was presented in its preliminary form, acknowledging that the assessments had not yet been fully updated to reflect the revised study area. This change in study area followed consultation on 9th December, and at the time of submission, data collection and assessment activities for the additional areas had not yet been completed. As such, the preliminary chapter does not yet capture all of the relevant baseline data, material sourcing information, or waste estimates for these extended areas. Gaps were therefore intentionally left within the chapter, with the understanding that these would be addressed as part of the ongoing assessment process and agreed as part of the PPA. The intent is to incorporate the relevant information and complete all outstanding elements ahead of the DCO submission, ensuring that the chapter accurately reflects the full extent of the updated study area and meets the requirements of the Environmental Impact Assessment Regulations.

Enclosure 1 reviews relevant national guidance, local waste planning policies in Leicestershire, Derbyshire, and Nottinghamshire, methodological best practices, and case studies to identify how an appropriate zone of influence (ZOI) can be determined. A summary comparison table of recommended radii/methods by source is provided at the end and is hoped that this represents a satisfactory justification for the ZOI illustrated in **Enclosure 2**.

Table 1-1: BWB Responses to LCC Comments

Paragraph reference	Comments	BWB Response
18.2.10 ii 18.2.11	<p>LCC did not agree a 30-mile expansive study area radius of study. 30 miles was mentioned as an example, but LCC asked that whatever radius used is supported with some form of evidence or justification.</p> <p>The documents used as justification for a 30-mile radius in this paragraph are generic and provide no real evidence for selecting a 30-mile radius as the expansive study area.</p> <p>This Chapter needs to justify expansive study area radius for both materials and waste separately.</p> <p>Radius still needs to be agreed with LCC and with other neighbouring authorities (Nottinghamshire, Derbyshire, Staffordshire, Lincolnshire, Staffordshire, Warwickshire and West Midlands Combined Authority). Whatever radius is agreed, it must be clear whether it is based on vehicle miles distance travelled or an isochrone.</p>	<p>The 30-mile radius cited was provided following initial consultation in which LCC proposed that an isopleth (circular) radius is best suited - and is not fixed.</p> <p>Separate justifications for materials and waste have now been developed, and both will distinguish whether the assessment is based on isochrone mapping or vehicle miles. We are engaging with neighbouring authorities (Nottinghamshire, Derbyshire, Staffordshire, Lincolnshire and Warwickshire) to agree on the most appropriate study area, based on regional logistics, facility catchments, and available data.</p> <p>We acknowledge LCC’s request for a clear justification and provided clarity in Enclosure 1.</p>
18.2.13	<p>States that “[<i>This section to be completed on receipt of data from and further consultation with LCC</i>]”.</p> <p>It is not clear what data is expected from LCC. No request has been received.</p>	<p>At the time of writing the draft chapter, we appreciate that no formal data request had been made to LCC. The information we are seeking specifically, relates to the local-level facility throughput and forecasted capacity information which is not publicly available. This will now be requested formally from LCC and relevant waste planning authorities.</p>
Table 18.1	<p>In the ‘Assessment of Operational Effects’ section Table 18.1 sets out the density:volume ratio for warehouse related waste during operation.</p> <p>An equivalent table should also be provided for construction and demolition related waste in the ‘Assessment of Construction Effects’ section.</p>	<p>An equivalent table for construction and demolition-related waste (CDW) has now been added under the ‘Assessment of Construction Effects’ section. This includes waste density and volume assumptions based on the BRE SmartWaste tool and industry benchmarks.</p>
Table 18.2	<p>Sensitivity Criteria table provides criteria for just inert waste but should</p>	<p>The table has been updated to include criteria for commercial and industrial (C&I) waste and municipal waste, in addition to inert waste, to</p>

	also provide criteria for other types of waste (e.g. commercial and industrial waste arising during the operational stage).	ensure a comprehensive assessment of all relevant waste streams during the operational phase.
18.2.44 & 45	Prior to the publication of the draft Environmental Statement the Applicant has not sought consideration and agreement from LCC on the materials and waste Chapter. Also, it has not identified what the data gaps are with which they would like support from LCC.	The Chapter was drafted and submitted with the final submission in mind. Whilst we acknowledge that formal engagement specific to this chapter was limited, we refer to the previous ‘Notices of Consultation’ and the meeting of the 11 th December in which we presented our methodology and highlighted existing data gaps and limitations with respect to information contained on the ‘waste Interrogator’. Going forward, we are continuing a focused dialogue with LCC to clarify outstanding data gaps and seek agreement on key methodological assumptions (including waste stream baselines, receptor sensitivities, and projected capacities).
18.2.46	Final bullet says available capacity data for 2020 projected forward to 2023 for landfill capacity. However, 2023 data is available from the Waste Data Interrogator so there is no need to project older data.	We acknowledge this as a typo and the most current information (2023) from the Waste Data Interrogator has been applied. The narrative has been corrected accordingly.
Table 18.8	Table includes cut and fill volume row, but no data is provided. Without knowing the cut and fill balance, it is unknown whether there will need to be importation of engineering fill or exportation of excavation waste.	We acknowledge the omission. The cut and fill assessment has now been completed and the resulting volumes included in the table and accompanying text. The balance determines whether materials will be reused on site or imported/exported.
18.5.17	Again, cut and fill balance needs to be completed.	
Table 18.9	Lack of reference to National Planning Policy for Waste (NPPW). Waste Disposal Authority Plan (2018-2030) has been superseded by the adopted Waste and Resources Strategy (2022-2050).	We acknowledge that the document has been superseded but it was included as a means of providing context. For clarity of discussion, the reference to the outdated Waste Disposal Authority Plan has been replaced with the current Waste and Resources Strategy (2022–2050). The National Planning Policy for Waste (NPPW) is now referenced and aligned with the assessment framework.
Table 18.11	This table attempts to present very different data in a single table for comparison. For example, sand and gravel is presented as annual sales, but crushed rock is total permitted reserves. It is using data from 2019 and 2020, when more recent data is available (e.g. Local Aggregate Assessments) and this should be used. Also, it is confusing as to whether a regional picture is being presented, or just Leicestershire.	This table has been revised to ensure data consistency (e.g. using either annual sales or permitted reserves, not both) and to reflect the most recent Local Aggregate Assessments (2021–2023). The geographical scope is now clearly identified for each data point—either Leicestershire or regional, as appropriate.

Table 18.13 and subsequent paragraphs	Inconsistency in the number of incinerators within the 30-mile expansive study area (to be agreed).	The inconsistency in the number of incinerators has been resolved. The data table and text have been aligned and updated with the latest available information. The facilities are now clearly identified by location within the agreed study area (once finalised).
18.4.8 to 18.4.11	There appears to have been the conflation of non-hazardous Construction and Demolition (C&D) wastes and non-hazardous waste (which relates mostly to municipal waste). It is not appropriate to compare the recycling rates of one with the other.	We acknowledge the conflation of non-hazardous municipal waste with C&D waste. These have now been separated, and recycling rate comparisons have been revised to reflect like-for-like waste types, using appropriate DEFRA data sets.
18.4.13 and table 18.13	This table should list the waste facilities in the 30-mile expansive study radius, not just Leicestershire.	The table now includes facilities from all relevant areas within the proposed expansive study area, not just Leicestershire. Each facility is listed with its waste type specialism and location (where this information exists).
18.4.14 and Table 18.14	It's not clear what waste streams are being used for the waste quantities set out in Table 18.14 (e.g. does it include non-hazardous municipal waste, C&D and Commercial & Industrial (C&I), or a selection of these streams). Also, it is not clear why 2022 data has been used, when more recent 2023 data is available.	2022 data has been used where 2023 data is unavailable. The table has been updated to clarify which waste streams are included (municipal, C&I, and C&D).
18.4.15	Makes reference to 76.7% of waste in Leicestershire being diverted from landfill and compares this against an England wide rate of 90%. However, the 90% seems to refer to C&D waste and 76.7% to a mix of waste streams. It makes the comparison meaningless.	The comparison with national performance is provided given the scheme is considered 'Nationally Significant'. The comparison has been revised to ensure consistency between waste types (e.g. comparing C&D diversion in Leicestershire with national C&D diversion rates only). Any mixed comparisons have been removed.
Table 18.15	Only landfill capacity in Leicestershire has been considered. It is missing for other authorities within whatever expansive study area is identified and agreed.	As discussed, the chapter was presented in its 'preliminary' form, recognising that all assessments had not yet been updated to accommodate the change in study area. This table has been expanded to include landfill capacity for all authorities within the defined study area. Sources have been cited from relevant regional and local waste plans.
Table 18.17	The table appears to be a partial representation of recycling facilities predominantly within Leicester City rather than the County. In addition, some identified sites are irrelevant for a Rail Freight Interchange (e.g. Household Waste Recycling Sites). Furthermore, no facilities have been considered in the expansive study area outside of Leicestershire (e.g. Derbyshire, Nottinghamshire).	The table has been revised to exclude irrelevant facilities (e.g. HWRCs) and include appropriate commercial waste processing and recycling infrastructure across the broader study area, including Derbyshire and Nottinghamshire.

18.5.20 & 22	Figures provided in these paragraphs do not reflect the figures in the tables that immediately precede them.	Figures in the text have been corrected to align precisely with those in the tables. Any discrepancies due to rounding or outdated figures have been resolved.
Section 18.6, 18.7 & 18.8	All include notes which say: "section to be completed".	These sections have now been completed, incorporating the outcomes of the impact assessment, mitigation strategy, and residual effects in line with the updated methodology and agreed study area.

Next Steps and Actions

As we have set out in **Enclosure 1 and as discussed on the 24th March**, it is our intent to continue engaging with LCC and other Stakeholders, not only to agree the spatial scope, but discuss results and any mitigation in advance of submission, to lend legitimacy to the chosen ZOI and also streamline the EIA review and reflect any of your concerns, all of which will form the basis of the Statement of Common Ground.

We look forward to meeting with you and discussing matters further on the **1st April**.

Yours sincerely

██████████ MSc(hons), BSc(hons), CEnv, MIEMA
Associate Director: Environmental Planning
TT: 0113 233 8000 | M: ██████████ | W: bwbconsulting.com



Enclosures:

Enclosure 1 – Zone of Influence for Waste in EIA – Strategic Rail Freight Centre (UK)
Enclosure 2 – Proposed Zone of Influence

Enclosure1: Zone of Influence for Waste in EIA – Strategic Rail Freight Centre (UK)

Zone of Influence for Waste in EIA – Strategic Rail Freight Centre (UK)

Introduction

When preparing an Environmental Impact Assessment (EIA), defining the “*zone of influence*” (or study area) for waste impacts is critical. This zone dictates the geographic extent considered when assessing waste generation and management during construction and operation (covering construction/demolition waste, commercial/industrial waste, municipal waste, etc.). Neither UK legislation nor EIA regulations prescribe a fixed radius for waste assessments – instead, guidance and best practice suggest a case-by-case definition, balancing the proximity principle (managing waste as close to its source as practicable) with the practical realities of waste infrastructure capacity and economics¹.

This report reviews relevant national guidance, local waste planning policies in Leicestershire, Derbyshire, and Nottinghamshire, methodological best practices, and case studies to identify how an appropriate zone of influence can be determined. A summary comparison table of recommended radii/methods by source is provided at the end.

National Guidance on Spatial Scope for Waste in EIA

UK EIA Practice Guidance: Modern EIA guidance emphasizes defining waste study areas based on where project wastes will realistically be managed, rather than an arbitrary distance. The Institute of Environmental Management and Assessment (IEMA) notes that an EIA practitioner should establish a suitable study area depending on the project’s location and the types/quantities of materials and waste involved². If materials can be sourced and wastes managed locally, the study area may remain local; but if the project’s waste needs require regional or national facilities, the study area should expand accordingly.

IEMA’s guide proposes using two tiers of study area: (1) the development footprint (site and immediate works) and (2) an “expansive” study area covering the availability/capacity of waste infrastructure (treatment facilities, landfills, etc.) in the relevant region(s). The expansive area might correspond to a waste planning region or span multiple regions if needed.

This tiered approach is echoed by sector-specific guidance. For example, Highways England’s DMRB LA 110 (2019) standard¹ for materials and waste requires defining two study areas: the project site itself, and a wider area including all waste management and recovery facilities that could receive the project’s arisings. The guidance explicitly states that the second study area should be established by balancing the proximity principle with value-for-money and logistical practicalities. Notably, if a project lies near administrative boundaries, the “region” considered should extend into neighbouring counties as appropriate, rather than being arbitrarily cut off. In practice, this means the waste assessment might encompass an entire county or multiple counties around the site, based on where suitable licensed facilities exist to handle the expected waste.

¹ Design Manual for Roads and Bridges: LA 110 Material assets and waste.

² IEMA guide to: Materials and Waste in Environmental Impact Assessment. Guidance for a proportionate approach

National Planning Policy for Waste: UK waste planning policy also provides context on catchment areas, though it does not fix any radius. The National Planning Policy for Waste (NPPW, 2014) and accompanying Planning Practice Guidance highlight that waste planning authorities (WPAs) should consider “the likely catchment and necessary flows of waste” for facilities³ In other words, plans and assessments should reflect the geographic area from which a facility will draw waste or to which project waste will go. For many waste streams, the distribution of arisings mirrors population and settlement patterns, so large facilities often serve wide areas. The NPPW stresses the proximity principle and self-sufficiency, i.e. managing waste as near as possible to its source and aiming for regions (and the UK as a whole) to handle their own waste arisings. However, it acknowledges that certain facilities (e.g. specialised hazardous waste plants or large energy-from-waste installations) require catchment areas large enough for viable operation, which may extend beyond individual local authority boundaries.

Planning authorities are therefore cautioned not to impose rigid distance limits that could hinder such necessary infrastructure. Instead, they should focus on whether a development is appropriately located relative to its waste sources and transport links. In summary, national policy supports defining the waste influence zone based on functional catchments and transport logistics rather than an arbitrary fixed radius.

Local Waste Planning Policies (Leicestershire, Derbyshire, Nottinghamshire)

Local waste plans in Leicestershire, Derbyshire, and Nottinghamshire all embed the proximity principle and discuss waste catchments, though none mandate a specific uniform radius for assessments. They generally distinguish between facilities serving a localised catchment versus those of sub-regional/regional significance, and stress flexibility to accommodate cross-border waste flows where justified.

- **Leicestershire:** The Leicestershire Minerals and Waste Local Plan (2019) and Waste Strategy (2022) reinforce managing waste as close to source as practicable. Leicestershire’s strategy explicitly aims to handle residual municipal waste within the county “where this is consistent with the proximity principle,” and to manage other wastes at “the nearest appropriate” facilities. This implies that, ideally, the county would be the extent of the waste influence area for local wastes, but if certain wastes require treatment elsewhere, the nearest regional facility should be used. In practice, large strategic developments in Leicestershire are assessed against both county-level waste capacity and the broader East Midlands region. For example, Leicestershire County Council often expects EIAs to consider impacts on the county’s waste management capacity (as part of achieving local self-sufficiency) while also acknowledging regional infrastructure for waste streams not handled within the county. The county’s policy does not quantify a mileage, but the implicit zone of influence is at least county-wide and can extend to regional facilities if needed (consistent with the Waste Management Plan for England’s proximity and self-sufficiency principles).
- **Nottinghamshire:** Nottinghamshire County (with Nottingham City) recently updated its Waste Local Plan (anticipated 2023/24)⁴. The draft plan advocates siting waste facilities “as close to source as practically possible” for most wastes, especially for large and medium-scale facilities. At the same

³ Ministry of Housing, Communities and Local Government, Ministry of Housing, Communities & Local Government (2018 to 2021) and Department for Levelling Up, Housing and Communities (2015): Waste Guidance. <https://www.gov.uk/guidance/waste#:~:text=,types%20of%20waste%20management%20facility>

⁴ <https://www.nottinghamshire.gov.uk/media/5077597/wastelocalplan2022.pdf#:~:text=waste%20more%20sustainably%20where%20possible,applicants%20to%20understand%20the%20overall>

time, it recognizes some proposals will serve a wider-than-local catchment, so the WPA will maintain a flexible approach and coordinate with neighbouring authorities in such case. The plan explicitly mentions that during its lifetime, proposals may come forward to take waste from a wider area, and the WPA will work with others to ensure the waste hierarchy and sustainability are still upheld

- In effect, Nottinghamshire’s policy implies an assessment zone that starts with the county (and city) area but may extend to a regional level if a facility intends to import waste from or export to outside the county. Notably, in an EIA context, Nottinghamshire has asked developers to consider waste capacity in both Nottinghamshire and adjacent counties if a project is likely to draw on cross-border waste infrastructure. For instance, Bassetlaw District (north Notts) advised that a large NSIP project’s waste assessment should evaluate capacity impacts in Nottinghamshire and Lincolnshire, given multiple big developments in the area using regional facilities This underscores that the zone of influence can span multiple counties where regional waste systems are interlinked.
- Derbyshire: Derbyshire (with Derby City) currently relies on an older Waste Local Plan (2005) while a new plan is in preparation. The 2005 plan firmly applied the proximity principle but explicitly declined to set a fixed distance, stating “it is not considered appropriate to specify a generally acceptable travel distance for waste because every case is different.” Instead, planners were directed to examine existing waste movement patterns and judge whether a proposal would significantly reduce or increase transport distances The plan noted that many waste movements occur across county boundaries (even short-distance cross-border trips) and that would likely continue It also acknowledged that longer-distance haulage by rail or water can sometimes be more sustainable than shorter road trips, particularly for large volumes

In essence, Derbyshire’s approach was case-by-case: a local recycling facility might only serve nearby towns, whereas a major landfill or treatment plant might justifiably draw waste from 30+ miles away. In EIA practice for Derbyshire projects, this translates to defining the study area based on the real catchment of the waste in question. A current example is the proposed East Midlands Intermodal Park SRFI (South Derbyshire), where scoping materials indicated that the waste assessment would likely consider the East Midlands region to capture all relevant waste infrastructure, rather than arbitrarily limiting to Derbyshire. Although Derbyshire’s own policy didn’t give numeric guidance, an adjacent authority (Staffordshire) provided a useful benchmark: Staffordshire’s waste plan (2013) considered landfills and large recovery facilities as “sub-regional/regional” serving roughly a 20–30 mile catchment, versus local composting facilities serving about a 15-mile radius. Derbyshire’s needs are similar given its mix of urban and rural areas; thus a 20–30 mile zone is often a reasonable starting point for strategic waste facilities, adjusted for specific circumstances.

In summary, the East Midlands WPAs expect waste to be managed near its source, but accept that county boundaries are porous for waste flows. None of these local policies imposes a strict radius (indeed, Staffordshire explicitly noted its distance figures were guidelines and not rigid limits.

The common thread is that an EIA’s waste study area should cover at least the host county and any other counties from which waste will be sourced or to which it will be sent, guided by the proximity principle and existing waste transport patterns.

Methodological Best Practice for Defining Waste Impact Zones

Beyond policy, various industry methodologies provide insight into how to justify a waste assessment's spatial scope. Key considerations include: the types of waste generated, likely destinations (treatment/disposal sites), available transportation, and the capacity of infrastructure within different distances.

Proximity Principle & Infrastructure Capacity: The proximity principle is embedded in UK and EU waste law, requiring waste to be disposed of in “one of the nearest appropriate installations.” However, “nearest” is not absolute distance alone – it must be balanced with facility suitability and economics¹.

Practitioners typically start by identifying all licensed waste facilities that could handle the project's waste types, then mapping these relative to the project site. Often a radius is used as a convenient boundary to capture facilities, but how large? One approach is to select a radius that covers the main waste management hubs in the region.

Guidance from organisations like WRAP and CIRIA (focused on sustainable resource management) suggests using a practical range such as 30 miles when defining “local” sourcing of materials and waste management. For example, WRAP notes that sourcing materials or sending waste within about 30 miles minimizes transport emissions and supports local economies. CIRIA's best practice guides likewise discuss logistics within similar distance bands (tens of miles) for construction waste, as distances beyond this often lead to diminishing returns in sustainability. British Standard BS 8903 (Sustainable Procurement), while not prescribing an exact distance, reinforces that prioritizing local sourcing (with distance thresholds aligned to practical transport limits) is a key strategy. These informal benchmarks have filtered into EIA practice – a 25–30 mile radius is commonly cited as a rule-of-thumb for a “local/regional” waste catchment in many assessments.

Transport and Cross-Boundary Factors: When defining the zone, consultants consider major transport routes. A radius that extends far along a motorway or rail line (enabling quick haulage) might be appropriate if the project is likely to use facilities accessible via that corridor. In contrast, if a facility 40 miles away is only reachable by smaller roads (impractical for heavy waste haulage), it might effectively fall outside the project's influence even if within a simple radius. Thus, some EIAs define the waste study area not as a perfect circle, but based on drive time isochrones or specific waste haul routes. For example, if a strategic site lies near the M1, the assessment might include waste infrastructure up the M1 corridor (even into neighbouring regions) within, say, an hour's drive. In all cases, availability of capacity is crucial: the zone should encompass all areas where there is spare landfill void or treatment capacity that the project might realistically utilise. Planners often consult the Environment Agency's Waste Data Interrogator and landfill capacity reports to see how far afield the waste may need to go if local capacity is tight. If the host county has limited void space and nearest available landfill is 50 miles away, the zone of influence must extend to that location to properly assess impact on capacity.

Consultation and Agreement: Best practice is to agree the study area in scoping with the relevant authorities. Both IEMA and DMRB guidance encourage early discussion with regulators about the proposed spatial scope. Such agreements ensure the EIA covers all relevant geographic areas of interest to the authority. It's also important to keep the study area under review; if consultations reveal that a more distant facility (outside the initial zone) is expected to take significant waste, the assessment boundary should be adjusted accordingly.

Case Studies and Examples

To illustrate how the zone of influence can be defined in practice, it's useful to look at similar projects or accepted EIAs in the region:

Rail Freight Interchange Proposals (East Midlands): Other SRFI or large-scale logistics proposals in the broader region have tended to use regional study areas rather than a fixed short radius. For example, the (now withdrawn) East Midlands Intermodal Park in South Derbyshire had initially scoped its waste assessment to the East Midlands Region (covering Derbyshire, Leicestershire, Nottinghamshire, etc.), reasoning that the project could draw waste management resources from anywhere in the region. Another case is the West Midlands Interchange SRFI (Staffordshire), which, though outside our tri-county focus, set a useful precedent by assessing waste capacity at both a regional (West Midlands) and national level for certain waste streams². It defined expansive study areas for inert and non-hazardous waste by region, and for hazardous waste at the national level, since hazardous waste often travels to a few specialized sites nationally. Hinckley SRFI also agreed upon a similar radius; the ES justifies 30 miles by aligning it with multiple guidance sources: WRAP's 30-mile local sourcing concept, CIRIA's logistics guidance, and the Defra Waste Management Plan for England which endorses the proximity principle (often interpreted in practice as ~30 miles).

This tiered method is instructive: a project may need *different* zones of influence for different waste types. A Leicestershire or Derbyshire SRFI EIA might similarly define, say, a 30-mile (multi-county) radius for common construction and commercial wastes, but consider the entire UK for niche hazardous wastes (as any hazardous construction waste might be sent to one of a handful of sites nationwide).

Local Development EIA Examples: Even for non-NSIP projects reviewed by local planning authorities, it's common to see waste assessments taking a regional view. For instance, a major commercial development in Nottinghamshire (the One Earth solar farm NSIP in Bassetlaw) received scoping feedback that its waste chapter should examine capacity forecasts in Nottinghamshire and neighbouring Lincolnshire. In Leicestershire, large construction projects have been asked to demonstrate that local waste facilities can handle their spoil and debris, often by referencing the county's Waste Needs Assessment and then extending outward to regional data if county capacity is constrained. The Leicester and Leicestershire Strategic Growth Plan documentation also indicates that significant infrastructure projects should plan for waste management in tandem with regional partners, ensuring that waste arising from growth is dealt with without exporting problems elsewhere.

These examples underscore that local authorities in this region expect a joined-up, cross-boundary approach in EIAs – essentially looking at the wider East Midlands waste network as the zone of influence, rather than an isolated district.

Waste Facility Catchment Policies: As a point of reference, some waste planning authorities (outside the three counties) have given explicit catchment distances in policy which, while not directly governing EIA, illustrate generally acceptable zones. The Staffordshire & Stoke-on-Trent Waste Local Plan (2013) defined “*local or sub-county*” scale facilities as those handling tens of thousands of tonnes per year with an approximate 15-mile service radius, whereas “*regional*” scale facilities (200,000+ tpa like incinerators or large landfills) might serve a 20–30 mile radius catchment. Staffordshire ultimately did not lock these into hard rules, but it demonstrates that a 15–30 mile range is considered reasonable for most waste developments in the Midlands. Similarly, the West Midlands RSS (now abolished) had used 30–50 km (~20–30 miles) catchments for certain waste facility planning. So in absence of a strict rule, many practitioners

treat ~30 miles as a sensible upper bound for a “local region” waste assessment radius, unless there is justification to go wider (e.g. lack of any landfill within 30 miles might force looking further).

In conclusion, the case studies reinforce that an EIA waste assessment in Leicestershire, Derbyshire, or Nottinghamshire should at minimum cover the host county and adjacent counties. A radius on the order of 25–30 miles is commonly employed to capture that scope, given the density of waste infrastructure in the East Midlands. This radius can be adjusted based on specific waste streams – narrower if the waste will clearly only go to a near site, or broader if needed for specialized waste. The key is to justify the chosen zone with evidence: cite proximity principle, existing waste travel distances, and the location of facilities likely to be used. If this justification is made (as in the EMG2 example, tying 30 miles to recognized guidance) and agreed in scoping, it is likely to be accepted by local authorities and inspectors.

Summary Comparison of Guidance on Waste Assessment Zone of Influence

The table below summarises various sources and their approach to defining the spatial extent (“zone of influence”) for waste assessments, highlighting any recommended radii or methods:

Source / Guidance	Recommended Zone of Influence / Methodology
IEMA EIA Guide (2020)	<i>No fixed radius.</i> Define study area based on where project materials will be sourced and wastes managed. Typically involves two tiers: (1) the project footprint, and (2) an expansive area covering the relevant waste planning region(s) needed for waste disposal/recovery. If waste can be dealt with locally, the study area remains small; if regional/national infrastructure is required, extend the scope accordingly.
DMRB LA 110 (Highways, 2019)	<i>Requires two study areas:</i> the immediate project site, and a wider area including all waste management facilities that could accept the project’s waste. Emphasises balancing the proximity principle with practical and economic factors when setting the wider region. Recommends agreeing the study area with the overseeing authority, and extending it across administrative boundaries if needed to include nearest suitable facilities. (No predefined distance; the “region” could be a county or multiple counties depending on site context.)
National Planning Policy (NPPW, PPG)	<i>No specific distance.</i> In line with the Waste Framework Directive, policy calls for waste to be managed close to source (proximity principle) and for planning to consider waste facility catchments necessary for viability. WPAs should plan for an adequate network of facilities to handle expected arisings, which may involve facilities serving areas beyond a single authority. The likely distribution of waste arisings and the catchment needed for a facility are key considerations. Thus, EIAs should reflect whether a project’s waste will be handled within the local authority, region, or beyond, based on facility availability – rather than imposing an arbitrary radius.
Leicestershire (Waste Policy)	<i>Proximity-led, county-focused.</i> Aim to manage waste within Leicestershire if possible: “residual waste within the County where consistent with the proximity principle”. Other wastes to be managed at the nearest appropriate facilities (which could be within or outside the

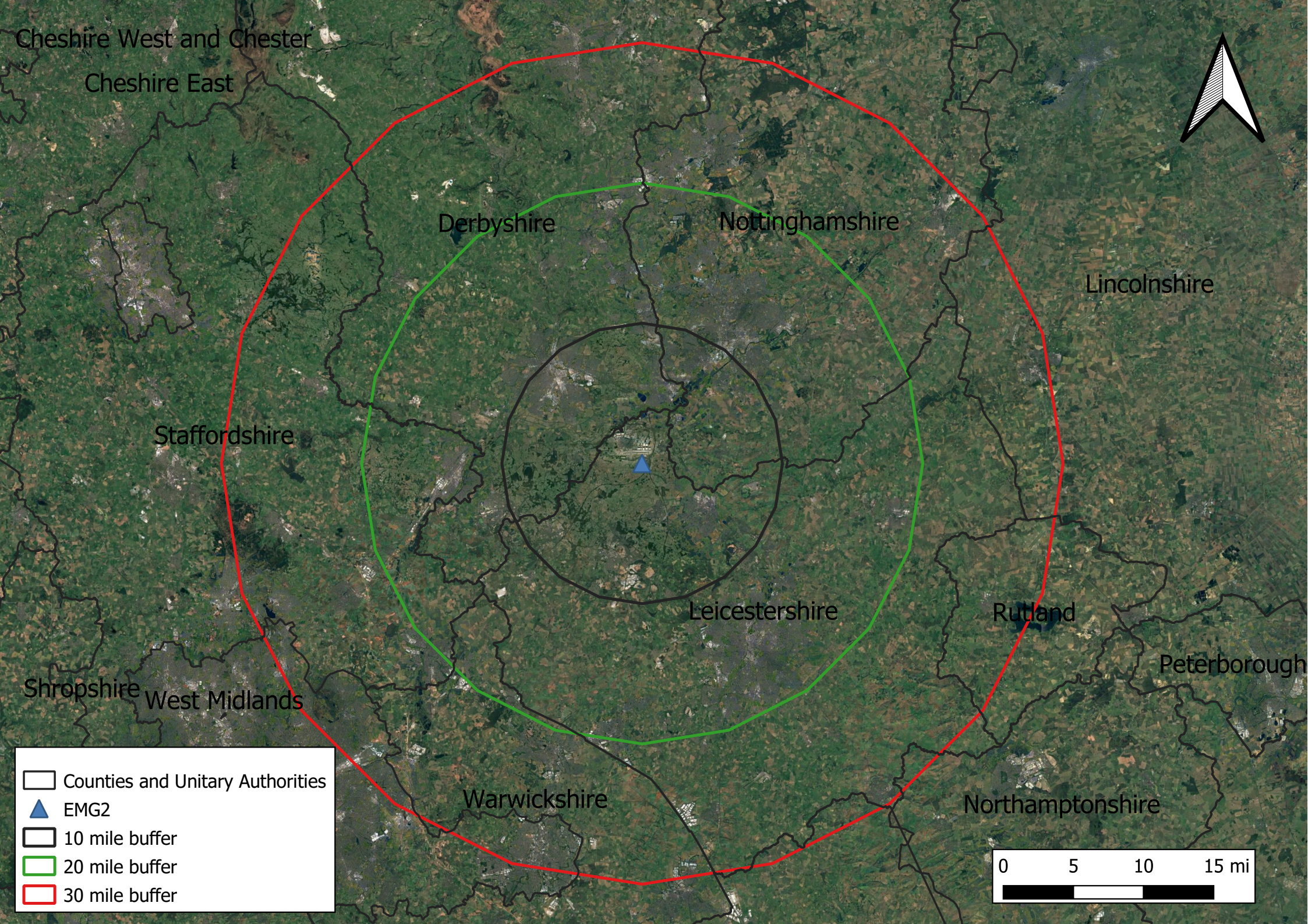
	<p>county). In practice, the county expects EIAs to consider impacts on both local (county) capacity and the surrounding region for any waste exported. No fixed radius is stated, but the policy implies using the county as a core zone and extending outward as needed to nearest waste infrastructure.</p>
Nottinghamshire (Draft WLP 2022)	<p><i>Close-to-source with flexibility.</i> Large and medium facilities should be “sited as close to source as practicably possible.” However, the plan anticipates some facilities will take waste from a wider catchment, so it adopts a flexible approach. The WPA will work with neighbouring authorities for cross-border waste flows. Thus, an EIA should cover Nottinghamshire and any other counties supplying or receiving the development’s waste. No set radius; the spatial extent is determined by the waste catchment of the proposal (often the East Midlands region for strategic sites).</p>
Derbyshire (WLP 2005)	<p><i>Case-by-case, no fixed distance.</i> The plan explicitly did not define a specific travel distance for waste, noting each case differs. Instead, assess whether the proposal aligns with the proximity principle by looking at current waste movement patterns and if it would reduce overall haul distances. Long-distance transport by rail or water can be acceptable for bulk waste. For EIA, this means the zone of influence is determined by the actual catchment needed for the waste in question (could be local or regional). In practical terms, a Derbyshire project’s waste study area often spans the county and adjacent counties, especially for strategic waste like landfill or treatment which might serve 20–30 miles or more.</p>
Staffordshire WLP (2013)	<p><i>Tiered catchment guidelines.</i> Identified typical service radii by facility type: e.g. 15-mile catchment for local-scale facilities (e.g. composting sites ~30–50k tpa) and 20–30 mile catchment for larger regional facilities (e.g. energy-from-waste or landfills ~200k+ tpa). These were examples rather than strict limits, and the policy remained flexible on distances. This provides a benchmark that ~30 miles is generally a reasonable maximum for a waste facility’s core catchment in a Midlands context.</p>
EIA Case Study	<p><i>Fixed radius applied (agreed).</i> This radius was chosen due to lack of any formal standard and because it aligns with several best-practice references: WRAP’s suggestion of ~30 miles for local sourcing, CIRIA logistics guidance, and Defra’s Waste Management Plan which implicitly supports a ~30-mile proximity guideline. Within that radius, all counties intersecting the circle were included in capacity analysis. This case demonstrates a successful justification of a specific radius by linking it to widely accepted sustainability criteria.</p>
Other Large Projects (East Mids)	<p>Regional study areas. Recent NSIPs and major projects in Leicestershire/Notts/Derbyshire have typically assessed waste at a county or regional scale. For example, one NSIP in north Notts was asked to consider waste capacity in two counties (Notts and Lincs) due to its wide footprint. Another project considered the entire East Midlands planning region as its study area to capture regional waste infrastructure. These examples underline that a multi-county regional approach is the norm for strategic developments’ waste assessments, with no single mileage but rather the inclusion of all relevant waste facilities in the broader region.</p>

Conclusion

In determining the appropriate zone of influence for a waste assessment in a new SRFI EIA (Leicestershire/Derbyshire/Nottinghamshire), the evidence points to a regionally scaled approach. National and local guidance concur that there is no one-size-fits-all radius; instead, the study area should encompass all areas likely to be affected by or involved in the project's waste management. Practically, this means:

- **Cover the Host and Neighbouring Counties:** At minimum include the county of the development and adjacent counties, as waste is often hauled across borders to the nearest suitable facility. This ensures alignment with local policies seeking waste to be dealt with nearby (often within the sub-region).
- **Use ~30 Miles as a Benchmark Radius:** In absence of specific directives, a radius around 30 miles is a defensible starting point for capturing the waste infrastructure network in the East Midlands. This distance has been referenced in sustainability frameworks and accepted in comparable EIAs, striking a balance between being broad enough to include regional facilities but still reflecting a “local” catchment in practical terms. Justify with Proximity and Capacity Data: Clearly explain why the chosen zone is appropriate. Include analysis of waste capacity within that zone to show the assessment is meaningful (as councils like Notts and Leicestershire will look for impacts on their waste management capacity). If certain waste streams require going beyond the initial zone (e.g. hazardous waste to a national facility), note that and consider a separate wider scope for those streams.
- **Coordinate with Authorities:** Engage the local Waste Planning Authority early (scoping) to agree the spatial scope. They may also provide input on any specific facilities or areas to include (for instance, if a neighbouring county facility is crucial). This not only lends legitimacy to the chosen zone of influence but also streamlines the EIA review, since the authority sees their concerns reflected.

By following these practices, the EIA waste assessment will be robust and geographically appropriate – considering all relevant waste generation and disposal impacts from construction and operation of the SRFI, without overextending into areas unlikely to be affected. The goal is to ensure that the assessment meaningfully evaluates whether local/regional waste infrastructure can accommodate the project (and what the environmental effects of that are) within a justified spatial boundary. Adopting a radius or zone supported by guidance and case studies, and tailoring it to the project's waste logistics, will meet both national EIA expectations and local planning policy requirements in Leicestershire, Derbyshire, and Nottinghamshire and beyond.



Enclosure 2: Proposed Zone of Influence

ANNEX 2B

**RESPONSE TO LCC WRITTEN REPRESENTATIONS – TECHNICAL
NOTE DATED 2 APRIL 2025**

Leicester County Council



Date: 02nd April 2025

Via Email

BWB Reference: 

EAST MIDLANDS GATEWAY PHASE 2 CONSULTATION
TECHNICAL NOTE ISSUE 2: RESPONSE TO LCC COMMENTS ON WASTE AND MATERIALS

Thank you for meeting with us to discuss the above proposed Nationally Significant Infrastructure Project (NSIP) on 02.04.2025.

This Technical Note (issue 2) has been prepared to provide updates in response to comments taken with respect to our previous Technical Note circulated 28th March 2025. It aims to address these matters and assist with seeking agreement on the scope and methodology of Chapter 18 of the Environmental Statement. Key matters of discussion were as follows:

1. Leicester County Council ('LCC') are appreciative of the additional information with respect to the revised 'Zone of Influence' and satisfied with the approach with respect to waste matters. LCC are however conscious that the justification is heavily focused on waste matters and does not account for materials.
2. Points of clarity with respect to data requests and the interpretation / application of publicly available information.
3. Agreements to circulate results of the assessment in advance of any statutory and formal submission process via the Planning Inspectorate ('PINS').

Addressing these matters:

1. Agreement of the Zone of Influence

We acknowledge that the primary focus of our previous Technical Note was on waste-related matters, and that the rationale for this focus may not have been sufficiently clear to the reader or consultees.

To clarify, while both materials and waste considerations are relevant in the EIA, the ZOI considered (and presented) for materials is guided by well-established best practice—most notably, guidance from WRAP¹,

¹ WRAP (Waste & Resources Action Programme) is frequently referenced in sustainable construction guidance. WRAP suggests that sourcing materials within 30 miles (approx. 50 km) of a construction site supports: a) lower transport emissions, b) local economic benefits and c) compliance with sustainable procurement goals (WRAP; 'Guidance for building and civil engineering projects - Procurement requirements for reducing waste and using resources efficiently').

CIRIA² and standards for Sustainable Procurement³ — which already supports the use of a 30-mile radius as a reasonable benchmark for defining a “local” or regional sourcing and supply area for construction materials.

Due to the relative clarity and precedent associated with defining the materials study area, we considered it more straightforward to stipulate and justify. In contrast, the ZOI for waste is typically more complex, requiring a more nuanced, case-by-case analysis of waste flows, infrastructure capacity, and proximity principles. As such, the Technical Note focused primarily on waste matters to address these more variable and locally sensitive issues.

While this focus was clear in our internal approach, we now recognise that it may not have been sufficiently communicated in the note itself, and we will ensure future versions more clearly distinguish between the two elements and their respective assessment boundaries. With this in mind, we have updated the previous enclosure to be more considerate of materials matters (**Enclosure 1**).

The ZOI therefore considers both waste and materials matters, reflecting a proportionate and rational approach that captures the key environmental considerations associated with each. This combined assessment ensures that the ZOI is appropriately defined to address the generation, movement, and management of waste, as well as the sourcing and use of materials, in a way that aligns with best practice and supports a balanced and integrated understanding of potential impacts.

2. Data Limitations and Use of Public Information

In response to discussions raised around the formal request of infection to inform the waste baseline and assessment, we wish to highlight the challenges experienced in applying the Environment Agency’s (EA’s) Waste Data Interrogator (WDI) to the newly defined ZOI. While we remain committed to a transparent, robust, and standards-led approach to managing waste from the project, the limitations in publicly available data constrain our ability to provide a high-resolution, site-specific baseline within the revised ZOI. This does not diminish our landfill diversion commitments, but it does impact our ability to model potential environmental effects in line with a worst-case scenario methodology.

The WDI typically aggregates data at the county level or across multiple sites, making it difficult to isolate which facilities are located within the newly defined ZOI (e.g., a 30-mile radius) and whether those sites were operational at the time the data was last published. For this reason, our original methodology adopted the county boundary as the spatial basis for the assessment, as it allowed us to apply data more consistently and with greater certainty.

With the adoption of a ZOI that spans beyond a single administrative area, we are now experiencing difficulty in conducting a detailed assessment of existing waste infrastructure capacity within this more localised, non-administrative area. Specifically, the lack of clearly attributable, site-level data restricts our

² CIRIA guidance (CIRIA C767) documents on sustainable construction and resource efficiency discuss how local sourcing and materials use can influence environmental impact. While CIRIA does not define a fixed radius, it encourages setting sourcing distances that align with sustainability targets, often citing 30–50 km (~20–30 miles) as a practical range for local material procurement.

³ While not construction-specific, BS 8903 advises that procurement policies should set geographical limits for sourcing where relevant. Many local authorities and major clients interpret this as justification for 30-mile sourcing limits for materials to support environmental goals.

ability to produce the granular, site-specific analysis that we would typically aim for in accordance with best practice.

While this does not compromise our commitment to diverting a minimum of 95% of construction waste from landfill, it does limit our ability to confidently assert a “worst-case” scenario prior to mitigation—a standard approach within EIA that we are keen to uphold and not be criticised for overlooking.

We intend to make further requests for disaggregated data from relevant Waste Planning Authorities and the EA to enhance the robustness of our assessment. However, we acknowledge that this information may not be readily available or publicly accessible. In some cases, it may not exist in a usable format, or it may be withheld for reasons of confidentiality or data sensitivity.

In addition, establishing a forward-looking (‘future baseline’) or estimated current baseline (2025) using the 2023 WDI datasets—alongside ‘Authority Monitoring Reports’ (AMR’s) and local plan evidence—presents similar difficulties. Without the ability to isolate the performance or capacity of individual facilities, it is extremely challenging to ‘reverse engineer’ infrastructure capacity and performance across the ZOI using publicly available sources. This data gap further complicates efforts to establish a clear and accurate baseline against which to assess future effects.

We hope this explanation helps to contextualise the scope and limitations of our current assessment approach. While these constraints do not undermine our overall waste management commitments, they do present technical challenges that we believe it is important to set out transparently.

3. Circulation of Information

We can confirm that we have been given authority to circulate the results of the assessment ahead of any statutory or formal submission to the Planning Inspectorate (‘PINS’). This early release of information is intended to support ongoing engagement with key stakeholders and consultees and reflects a proactive approach to collaboration and transparency.

By sharing the assessment findings in advance, we are able to assist with the alignment of respective programmes and facilitate a clearer understanding of the anticipated environmental effects and proposed mitigation measures. Importantly, this also provides an opportunity to identify and address any points of clarification or concern prior to formal submission, helping to streamline the Examination process and, where possible, secure early agreement on key outcomes.

We believe this approach will enhance the quality and efficiency of the Examination and ultimately support a more robust and well-informed decision-making process.

Next Steps and Actions

We will continue to explore all reasonable avenues to improve data clarity — including submitting direct requests for information — but wish to acknowledge this constraint at this stage to ensure transparency and manage expectations regarding assessment precision.

We will circulate the latest draft of the assessment at the earliest opportunity. Please note that we are aiming to submit a version for internal discussion by 11th April, so it is likely that you will receive it concurrently. In response, and taking into account your upcoming annual leave, we’re happy to leave the assessment with you to review and provide comments at your convenience. Please don’t hesitate to get in touch or arrange a follow-up meeting at a time that suits you, but we will follow-up in due course.

Yours sincerely,

██████████

██████████ **MSc(hons), BSc(hons), CEnv, MIEMA**

Associate Director: Environmental Planning

TT: 0113 233 8000 | M: ██████████ | W: bwbconsulting.com



Enclosures:

Enclosure 1 – Updated Justification for establishing the Zone of Influence for Waste and Materials in EIA

Enclosure1: Updated Justification for establishing the Zone of Influence for
Waste & Materials in EIA

Updated Justification for establishing the Zone of Influence for Waste & Materials in EIA

Introduction

Considering waste and materials within an Environmental Impact Assessment (EIA) is essential for promoting environmental sustainability and ensuring compliance with national and local policy objectives. The extraction, processing, use, and disposal of materials can have significant environmental impacts, including resource depletion, energy consumption, pollution, and greenhouse gas emissions. Similarly, the generation of waste—particularly during construction and operational phases—can place pressure on existing waste infrastructure, contribute to landfill use, and increase transport-related impacts. By assessing materials and waste at the EIA stage, developers can identify opportunities to reduce resource consumption, prioritise the use of recycled or locally sourced materials, and apply the waste hierarchy to maximise reuse and recycling while minimising landfill disposal. This approach supports the transition to a circular economy, aligns with principles of sustainable development, and helps ensure that mitigation measures are integrated early in the project design. Ultimately, a robust assessment of materials and waste contributes to a more environmentally responsible and resilient development.

When preparing an EIA, defining the “*zone of influence*” (or study area) for impacts is critical. This zone dictates the geographic extent considered when assessing waste and material generation and management during construction and operation (covering construction/demolition, material availability, procurement and selection, commercial/industrial waste, municipal waste, etc.).

Identifying a ZOI for the assessment of materials is guided by well-established best practice—most notably, guidance from WRAP⁴, CIRIA⁵ and standards for Sustainable Procurement⁶ — which already supports the use of a 30-mile radius as a reasonable benchmark for defining a “local” or regional sourcing and supply area for construction materials. Due to the relative clarity and precedent associated with defining the materials study area, we considered it more straightforward to stipulate and justify. In contrast, neither UK legislation nor EIA regulations prescribe a fixed radius for waste assessments – instead, guidance and best practice suggest a case-by-case definition, balancing the proximity principle (managing

⁴ WRAP (Waste & Resources Action Programme) is frequently referenced in sustainable construction guidance. WRAP suggests that sourcing materials within 30 miles (approx. 50 km) of a construction site supports: a) lower transport emissions, b) local economic benefits and c) compliance with sustainable procurement goals (WRAP; ‘*Guidance for building and civil engineering projects - Procurement requirements for reducing waste and using resources efficiently*’).

⁵ CIRIA guidance (CIRIA C767) documents on sustainable construction and resource efficiency discuss how local sourcing and materials use can influence environmental impact. While CIRIA does not define a fixed radius, it encourages setting sourcing distances that align with sustainability targets, often citing 30–50 km (~20–30 miles) as a practical range for local material procurement.

⁶ While not construction-specific, BS 8903 advises that procurement policies should set geographical limits for sourcing where relevant. Many local authorities and major clients interpret this as justification for 30-mile sourcing limits for materials to support environmental goals.

waste as close to its source as practicable) with the practical realities of waste infrastructure capacity and economics⁷.

As such, this report primarily focusses on relevant national guidance, local planning policies in Leicestershire, Derbyshire, and Nottinghamshire, methodological best practices, and case studies to identify how an appropriate zone of influence can be determined in respect of waste matters. A summary comparison table of recommended radii/methods by source is provided at the end.

National Guidance on Spatial Scope for Waste in EIA

UK EIA Practice Guidance: Modern EIA guidance emphasizes defining waste study areas based on where project wastes will realistically be managed, rather than an arbitrary distance. The Institute of Environmental Management and Assessment (IEMA) notes that an EIA practitioner should establish a suitable study area depending on the project's location and the types/quantities of materials and waste involved⁸. If materials can be sourced and wastes managed locally, the study area may remain local; but if the project's waste needs require regional or national facilities, the study area should expand accordingly.

IEMA's guide proposes using two tiers of study area: (1) the development footprint (site and immediate works) and (2) an "expansive" study area covering the availability/capacity of waste infrastructure (treatment facilities, landfills, etc.) in the relevant region(s). The expansive area might correspond to a waste planning region or span multiple regions if needed.

This tiered approach is echoed by sector-specific guidance. For example, Highways England's DMRB LA 110 (2019) standard¹ for materials and waste requires defining two study areas: the project site itself, and a wider area including all waste management and recovery facilities that could receive the project's arisings. The guidance explicitly states that the second study area should be established by balancing the proximity principle with value-for-money and logistical practicalities. Notably, if a project lies near administrative boundaries, the "region" considered should extend into neighbouring counties as appropriate, rather than being arbitrarily cut off. In practice, this means the waste assessment might encompass an entire county or multiple counties around the site, based on where suitable licensed facilities exist to handle the expected waste.

National Planning Policy for Waste: UK waste planning policy also provides context on catchment areas, though it does not fix any radius. The National Planning Policy for Waste (NPPW, 2014) and accompanying Planning Practice Guidance highlight that waste planning authorities (WPAs) should consider "the likely catchment and necessary flows of waste" for facilities⁹. In other words, plans and assessments should reflect the geographic area from which a facility will draw waste or to which project waste will go. For many waste streams, the distribution of arisings mirrors population and settlement patterns, so large facilities often serve wide areas. The NPPW stresses the proximity principle and self-sufficiency, i.e. managing waste as near as possible to its source and aiming for regions (and the UK as a whole) to handle their own waste

⁷ Design Manual for Roads and Bridges: LA 110 Material assets and waste.

⁸ IEMA guide to: Materials and Waste in Environmental Impact Assessment. Guidance for a proportionate approach

⁹ Ministry of Housing, Communities and Local Government, Ministry of Housing, Communities & Local Government (2018 to 2021) and Department for Levelling Up, Housing and Communities (2015): Waste Guidance. <https://www.gov.uk/guidance/waste#:~:text=,types%20of%20waste%20management%20facility>

arisings. However, it acknowledges that certain facilities (e.g. specialised hazardous waste plants or large energy-from-waste installations) require catchment areas large enough for viable operation, which may extend beyond individual local authority boundaries.

Planning authorities are therefore cautioned not to impose rigid distance limits that could hinder such necessary infrastructure. Instead, they should focus on whether a development is appropriately located relative to its waste sources and transport links. In summary, national policy supports defining the waste influence zone based on functional catchments and transport logistics rather than an arbitrary fixed radius.

Local Waste Planning Policies (Leicestershire, Derbyshire, Nottinghamshire)

Local waste plans in Leicestershire, Derbyshire, and Nottinghamshire all embed the proximity principle and discuss waste catchments, though none mandate a specific uniform radius for assessments. They generally distinguish between facilities serving a localised catchment versus those of sub-regional/regional significance, and stress flexibility to accommodate cross-border waste flows where justified.

- **Leicestershire:** The Leicestershire Minerals and Waste Local Plan (2019) and Waste Strategy (2022) reinforce managing waste as close to source as practicable. Leicestershire’s strategy explicitly aims to handle residual municipal waste within the county “where this is consistent with the proximity principle,” and to manage other wastes at “the nearest appropriate” facilities. This implies that, ideally, the county would be the extent of the waste influence area for local wastes, but if certain wastes require treatment elsewhere, the nearest regional facility should be used. In practice, large strategic developments in Leicestershire are assessed against both county-level waste capacity and the broader East Midlands region. For example, Leicestershire County Council often expects EIAs to consider impacts on the county’s waste management capacity (as part of achieving local self-sufficiency) while also acknowledging regional infrastructure for waste streams not handled within the county. The county’s policy does not quantify a mileage, but the implicit zone of influence is at least county-wide and can extend to regional facilities if needed (consistent with the Waste Management Plan for England’s proximity and self-sufficiency principles).
- **Nottinghamshire:** Nottinghamshire County (with Nottingham City) recently updated its Waste Local Plan (anticipated 2023/24)¹⁰. The draft plan advocates siting waste facilities “as close to source as practically possible” for most wastes, especially for large and medium-scale facilities. At the same time, it recognizes some proposals will serve a wider-than-local catchment, so the WPA will maintain a flexible approach and coordinate with neighbouring authorities in such case. The plan explicitly mentions that during its lifetime, proposals may come forward to take waste from a wider area, and the WPA will work with others to ensure the waste hierarchy and sustainability are still upheld
- In effect, Nottinghamshire’s policy implies an assessment zone that starts with the county (and city) area but may extend to a regional level if a facility intends to import waste from or export to outside the county. Notably, in an EIA context, Nottinghamshire has asked developers to consider waste capacity in both Nottinghamshire and adjacent counties if a project is likely to draw on cross-border waste infrastructure. For instance, Bassetlaw District (north Notts) advised that a large NSIP project’s waste assessment should evaluate capacity impacts in Nottinghamshire and Lincolnshire, given

¹⁰<https://www.nottinghamshire.gov.uk/media/5077597/wastelocalplan2022.pdf#:~:text=waste%20more%20sustainably%20where%20possible,applicants%20to%20understand%20the%20overall>

multiple big developments in the area using regional facilities This underscores that the zone of influence can span multiple counties where regional waste systems are interlinked.

- Derbyshire: Derbyshire (with Derby City) currently relies on an older Waste Local Plan (2005) while a new plan is in preparation. The 2005 plan firmly applied the proximity principle but explicitly declined to set a fixed distance, stating “it is not considered appropriate to specify a generally acceptable travel distance for waste because every case is different.” Instead, planners were directed to examine existing waste movement patterns and judge whether a proposal would significantly reduce or increase transport distances The plan noted that many waste movements occur across county boundaries (even short-distance cross-border trips) and that would likely continue It also acknowledged that longer-distance haulage by rail or water can sometimes be more sustainable than shorter road trips, particularly for large volumes

In essence, Derbyshire’s approach was case-by-case: a local recycling facility might only serve nearby towns, whereas a major landfill or treatment plant might justifiably draw waste from 30+ miles away. In EIA practice for Derbyshire projects, this translates to defining the study area based on the real catchment of the waste in question. A current example is the proposed East Midlands Intermodal Park SRFI (South Derbyshire), where scoping materials indicated that the waste assessment would likely consider the East Midlands region to capture all relevant waste infrastructure, rather than arbitrarily limiting to Derbyshire. Although Derbyshire’s own policy didn’t give numeric guidance, an adjacent authority (Staffordshire) provided a useful benchmark: Staffordshire’s waste plan (2013) considered landfills and large recovery facilities as “sub-regional/regional” serving roughly a 20–30 mile catchment, versus local composting facilities serving about a 15-mile radius. Derbyshire’s needs are similar given its mix of urban and rural areas; thus a 20–30 mile zone is often a reasonable starting point for strategic waste facilities, adjusted for specific circumstances.

In summary, the East Midlands WPAs expect waste to be managed near its source, but accept that county boundaries are porous for waste flows. None of these local policies imposes a strict radius (indeed, Staffordshire explicitly noted its distance figures were guidelines and not rigid limits.

The common thread is that an EIA’s waste study area should cover at least the host county and any other counties from which waste will be sourced or to which it will be sent, guided by the proximity principle and existing waste transport patterns.

Methodological Best Practice for Defining Waste Impact Zones

Beyond policy, various industry methodologies provide insight into how to justify a waste assessment’s spatial scope. Key considerations include: the types of waste generated, likely destinations (treatment/disposal sites), available transportation, and the capacity of infrastructure within different distances.

Proximity Principle & Infrastructure Capacity: The proximity principle is embedded in UK and EU waste law, requiring waste to be disposed of in “one of the nearest appropriate installations.” However, “nearest” is not absolute distance alone – it must be balanced with facility suitability and economics¹.

Practitioners typically start by identifying all licensed waste facilities that could handle the project’s waste types, then mapping these relative to the project site. Often a radius is used as a convenient boundary to

capture facilities, but how large? One approach is to select a radius that covers the main waste management hubs in the region.

Guidance from organisations like WRAP and CIRIA (focused on sustainable resource management) suggests using a practical range such as 30 miles when defining “local” sourcing of materials and waste management. For example, WRAP notes that sourcing materials or sending waste within about 30 miles minimizes transport emissions and supports local economies. CIRIA’s best practice guides likewise discuss logistics within similar distance bands (tens of miles) for construction waste, as distances beyond this often lead to diminishing returns in sustainability. British Standard BS 8903 (Sustainable Procurement), while not prescribing an exact distance, reinforces that prioritizing local sourcing (with distance thresholds aligned to practical transport limits) is a key strategy. These informal benchmarks have filtered into EIA practice – a 25–30 mile radius is commonly cited as a rule-of-thumb for a “local/regional” waste catchment in many assessments.

Transport and Cross-Boundary Factors: When defining the zone, consultants consider major transport routes. A radius that extends far along a motorway or rail line (enabling quick haulage) might be appropriate if the project is likely to use facilities accessible via that corridor. In contrast, if a facility 40 miles away is only reachable by smaller roads (impractical for heavy waste haulage), it might effectively fall outside the project’s influence even if within a simple radius. Thus, some EIAs define the waste study area not as a perfect circle, but based on drive time isochrones or specific waste haul routes. For example, if a strategic site lies near the M1, the assessment might include waste infrastructure up the M1 corridor (even into neighbouring regions) within, say, an hour’s drive. In all cases, availability of capacity is crucial: the zone should encompass all areas where there is spare landfill void or treatment capacity that the project might realistically utilise. Planners often consult the Environment Agency’s Waste Data Interrogator and landfill capacity reports to see how far afield the waste may need to go if local capacity is tight. If the host county has limited void space and nearest available landfill is 50 miles away, the zone of influence must extend to that location to properly assess impact on capacity.

Consultation and Agreement: Best practice is to agree the study area in scoping with the relevant authorities. Both IEMA and DMRB guidance encourage early discussion with regulators about the proposed spatial scope. Such agreements ensure the EIA covers all relevant geographic areas of interest to the authority. It’s also important to keep the study area under review; if consultations reveal that a more distant facility (outside the initial zone) is expected to take significant waste, the assessment boundary should be adjusted accordingly.

Case Studies and Examples

To illustrate how the zone of influence can be defined in practice, it’s useful to look at similar projects or accepted EIAs in the region:

Rail Freight Interchange Proposals (East Midlands): Other SRFI or large-scale logistics proposals in the broader region have tended to use regional study areas rather than a fixed short radius. For example, the (now withdrawn) East Midlands Intermodal Park in South Derbyshire had initially scoped its waste assessment to the East Midlands Region (covering Derbyshire, Leicestershire, Nottinghamshire, etc.), reasoning that the project could draw waste management resources from anywhere in the region. Another case is the West Midlands Interchange SRFI (Staffordshire), which, though outside our tri-county focus, set a useful precedent by assessing waste capacity at both a regional (West Midlands) and national level for certain waste streams². It defined expansive study areas for inert and non-hazardous waste by region, and

for hazardous waste at the national level, since hazardous waste often travels to a few specialized sites nationally. Hinckley SRFI also agreed upon a similar radius; the ES justifies 30 miles by aligning it with multiple guidance sources: WRAP's 30-mile local sourcing concept, CIRIA's logistics guidance, and the Defra Waste Management Plan for England which endorses the proximity principle (often interpreted in practice as ~30 miles).

This tiered method is instructive: a project may need *different* zones of influence for different waste types. A Leicestershire or Derbyshire SRFI EIA might similarly define, say, a 30-mile (multi-county) radius for common construction and commercial wastes, but consider the entire UK for niche hazardous wastes (as any hazardous construction waste might be sent to one of a handful of sites nationwide).

Local Development EIA Examples: Even for non-NSIP projects reviewed by local planning authorities, it's common to see waste assessments taking a regional view. For instance, a major commercial development in Nottinghamshire (the One Earth solar farm NSIP in Bassetlaw) received scoping feedback that its waste chapter should examine capacity forecasts in Nottinghamshire and neighbouring Lincolnshire. In Leicestershire, large construction projects have been asked to demonstrate that local waste facilities can handle their spoil and debris, often by referencing the county's Waste Needs Assessment and then extending outward to regional data if county capacity is constrained. The Leicester and Leicestershire Strategic Growth Plan documentation also indicates that significant infrastructure projects should plan for waste management in tandem with regional partners, ensuring that waste arising from growth is dealt with without exporting problems elsewhere.

These examples underscore that local authorities in this region expect a joined-up, cross-boundary approach in EIAs – essentially looking at the wider East Midlands waste network as the zone of influence, rather than an isolated district.

Waste Facility Catchment Policies: As a point of reference, some waste planning authorities (outside the three counties) have given explicit catchment distances in policy which, while not directly governing EIA, illustrate generally acceptable zones. The Staffordshire & Stoke-on-Trent Waste Local Plan (2013) defined “*local or sub-county*” scale facilities as those handling tens of thousands of tonnes per year with an approximate 15-mile service radius, whereas “*regional*” scale facilities (200,000+ tpa like incinerators or large landfills) might serve a 20–30 mile radius catchment. Staffordshire ultimately did not lock these into hard rules, but it demonstrates that a 15–30 mile range is considered reasonable for most waste developments in the Midlands. Similarly, the West Midlands RSS (now abolished) had used 30–50 km (~20–30 miles) catchments for certain waste facility planning. So in absence of a strict rule, many practitioners treat ~30 miles as a sensible upper bound for a “local region” waste assessment radius, unless there is justification to go wider (e.g. lack of any landfill within 30 miles might force looking further).

In conclusion, the case studies reinforce that an EIA waste assessment in Leicestershire, Derbyshire, or Nottinghamshire should at minimum cover the host county and adjacent counties. A radius on the order of 25–30 miles is commonly employed to capture that scope, given the density of waste infrastructure in the East Midlands. This radius can be adjusted based on specific waste streams – narrower if the waste will clearly only go to a near site, or broader if needed for specialized waste. The key is to justify the chosen zone with evidence: cite proximity principle, existing waste travel distances, and the location of facilities likely to be used. If this justification is made (as in the EMG2 example, tying 30 miles to recognized guidance) and agreed in scoping, it is likely to be accepted by local authorities and inspectors.

Summary Comparison of Guidance on Waste Assessment Zone of Influence

The table below summarises various sources and their approach to defining the spatial extent (“zone of influence”) for waste assessments, highlighting any recommended radii or methods:

Source / Guidance	Recommended Zone of Influence / Methodology
IEMA EIA Guide (2020)	<i>No fixed radius.</i> Define study area based on where project materials will be sourced and wastes managed. Typically involves two tiers: (1) the project footprint, and (2) an expansive area covering the relevant waste planning region(s) needed for waste disposal/recovery. If waste can be dealt with locally, the study area remains small; if regional/national infrastructure is required, extend the scope accordingly.
DMRB LA 110 (Highways, 2019)	<i>Requires two study areas:</i> the immediate project site, and a wider area including all waste management facilities that could accept the project’s waste. Emphasises balancing the proximity principle with practical and economic factors when setting the wider region. Recommends agreeing the study area with the overseeing authority, and extending it across administrative boundaries if needed to include nearest suitable facilities. (No predefined distance; the “region” could be a county or multiple counties depending on site context.)
National Planning Policy (NPPW, PPG)	<i>No specific distance.</i> In line with the Waste Framework Directive, policy calls for waste to be managed close to source (proximity principle) and for planning to consider waste facility catchments necessary for viability. WPAs should plan for an adequate network of facilities to handle expected arisings, which may involve facilities serving areas beyond a single authority. The likely distribution of waste arisings and the catchment needed for a facility are key considerations. Thus, EIAs should reflect whether a project’s waste will be handled within the local authority, region, or beyond, based on facility availability – rather than imposing an arbitrary radius.
Leicestershire (Waste Policy)	<i>Proximity-led, county-focused.</i> Aim to manage waste within Leicestershire if possible: “residual waste within the County where consistent with the proximity principle”. Other wastes to be managed at the nearest appropriate facilities (which could be within or outside the county). In practice, the county expects EIAs to consider impacts on both local (county) capacity and the surrounding region for any waste exported. No fixed radius is stated, but the policy implies using the county as a core zone and extending outward as needed to nearest waste infrastructure.
Nottinghamshire (Draft WLP 2022)	<i>Close-to-source with flexibility.</i> Large and medium facilities should be “sited as close to source as practicably possible.” However, the plan anticipates some facilities will take waste from a wider catchment, so it adopts a flexible approach. The WPA will work with neighbouring authorities for cross-border waste flows. Thus, an EIA should cover Nottinghamshire and any other counties supplying or receiving the development’s waste. No set radius; the spatial extent is determined by the waste catchment of the proposal (often the East Midlands region for strategic sites).

Derbyshire (WLP 2005)	<p><i>Case-by-case, no fixed distance.</i> The plan explicitly did not define a specific travel distance for waste, noting each case differs. Instead, assess whether the proposal aligns with the proximity principle by looking at current waste movement patterns and if it would reduce overall haul distances. Long-distance transport by rail or water can be acceptable for bulk waste. For EIA, this means the zone of influence is determined by the actual catchment needed for the waste in question (could be local or regional). In practical terms, a Derbyshire project’s waste study area often spans the county and adjacent counties, especially for strategic waste like landfill or treatment which might serve 20–30 miles or more.</p>
Staffordshire WLP (2013)	<p><i>Tiered catchment guidelines.</i> Identified typical service radii by facility type: e.g. 15-mile catchment for local-scale facilities (e.g. composting sites ~30–50k tpa) and 20–30 mile catchment for larger regional facilities (e.g. energy-from-waste or landfills ~200k+ tpa). These were examples rather than strict limits, and the policy remained flexible on distances. This provides a benchmark that ~30 miles is generally a reasonable maximum for a waste facility’s core catchment in a Midlands context.</p>
EIA Case Study	<p><i>Fixed radius applied (agreed).</i> This radius was chosen due to lack of any formal standard and because it aligns with several best-practice references: WRAP’s suggestion of ~30 miles for local sourcing, CIRIA logistics guidance, and Defra’s Waste Management Plan which implicitly supports a ~30-mile proximity guideline. Within that radius, all counties intersecting the circle were included in capacity analysis. This case demonstrates a successful justification of a specific radius by linking it to widely accepted sustainability criteria.</p>
Other Large Projects (East Mids)	<p>Regional study areas. Recent NSIPs and major projects in Leicestershire/Notts/Derbyshire have typically assessed waste at a county or regional scale. For example, one NSIP in north Notts was asked to consider waste capacity in two counties (Notts and Lincs) due to its wide footprint. Another project considered the entire East Midlands planning region as its study area to capture regional waste infrastructure. These examples underline that a multi-county regional approach is the norm for strategic developments’ waste assessments, with no single mileage but rather the inclusion of all relevant waste facilities in the broader region.</p>

Conclusion

In determining the appropriate zone of influence for a waste assessment in a new SRFI EIA (Leicestershire/Derbyshire/Nottinghamshire), the evidence points to a regionally scaled approach. National and local guidance concur that there is no one-size-fits-all radius; instead, the study area should encompass all areas likely to be affected by or involved in the project's waste management. Practically, this means:

- **Cover the Host and Neighbouring Counties:** At minimum include the county of the development and adjacent counties, as waste is often hauled across borders to the nearest suitable facility. This ensures alignment with local policies seeking waste to be dealt with nearby (often within the sub-region).
- **Use ~30 Miles as a Benchmark Radius:** In absence of specific directives, a radius around 30 miles is a defensible starting point for capturing the waste infrastructure network in the East Midlands. This distance has been referenced in sustainability frameworks and accepted in comparable EIAs, striking a balance between being broad enough to include regional facilities but still reflecting a “local” catchment in practical terms. Justify with Proximity and Capacity Data: Clearly explain why the chosen zone is appropriate. Include analysis of waste capacity within that zone to show the assessment is meaningful (as councils like Notts and Leicestershire will look for impacts on their waste management capacity). If certain waste streams require going beyond the initial zone (e.g. hazardous waste to a national facility), note that and consider a separate wider scope for those streams.
- **Coordinate with Authorities:** Engage the local Waste Planning Authority early (scoping) to agree the spatial scope. They may also provide input on any specific facilities or areas to include (for instance, if a neighbouring county facility is crucial). This not only lends legitimacy to the chosen zone of influence but also streamlines the EIA review, since the authority sees their concerns reflected.

The ZOI therefore considers both waste and materials matters, reflecting a proportionate and rational approach that captures the key environmental considerations associated with each. This combined assessment ensures that the ZOI is appropriately defined to address the generation, movement, and management of waste, as well as the sourcing and use of materials, in a way that aligns with best practice and supports a balanced and integrated understanding of potential impacts.

By following these practices, the EIA waste and material assessment will be robust and geographically appropriate – considering all relevant waste generation and disposal impacts from construction and operation of the SRFI, without overextending into areas unlikely to be affected. The goal is to ensure that the assessment meaningfully evaluates whether local/regional waste infrastructure can accommodate the project (and what the environmental effects of that are) within a justified spatial boundary. Adopting a radius or ZOI supported by guidance and case studies, and tailoring it to the project's waste logistics, will meet both national EIA expectations and local planning policy requirements in Leicestershire, Derbyshire, and Nottinghamshire and beyond.

ANNEX 2C

**RESPONSE TO LCC WRITTEN REPRESENTATIONS – TECHNICAL
NOTE DATED 24 MARCH 2026**

Leicester County Council



Date: 24 March 2026

Via Email

BWB Reference: [REDACTED]

SEGRO PROPERTIES LIMITED FOR AN ORDER GRANTING CONSENT FOR THE EAST MIDLANDS GATEWAY PHASE 2 (BC0410001)

RESPONSE TO RELEVANT REPRESENTATIONS BY LCC ON WASTE AND MATERIAL MATTERS

Further to the Technical Note issued on 26 February 2026 (Enclosure 1) and the subsequent meeting held on Tuesday 3 March 2026, this note provides responses to the clarification points raised by Leicestershire County Council during a meeting held on 19 March 2026.

The purpose of this Technical Note is to address the specific matters identified, provide additional clarification where required, and support ongoing discussions between the Applicant and the Council.

It is important to note that the recalculation of the assessment presented within the Technical Note dated 26th February, and the tracked review of Chapter 18 has been undertaken for illustrative purposes only. An updated Chapter 18: Materials and Waste may be issued at Deadline 1 (7 April 2026) of the examination of the applications Examining Panel but this is yet to be confirmed at the time of writing.

The recalculations have therefore been prepared solely to assist the examination process and respond to the specific points raised by Leicestershire County Council. The exercise has been undertaken in a collaborative spirit to aid discussion, provide transparency regarding the updated datasets, and demonstrate how the assessment would read if the most recently available information were applied.

Importantly, the purpose of this exercise is to provide confidence that, when the updated datasets are considered, the conclusions of the original assessment remain robust and conclusions remain unchanged; the review confirms that the updated data does not alter the significance testing within the assessment, and no effects previously assessed as not significant become significant in EIA terms.

Addressing these matters:

LCC Comment	BWB Response
<p>Note changes to paragraph 18.12 of tracked Environmental Statement (ES) Chapter 18 Materials and Waste</p>	<p>No response required.</p>
<p>There still remains some confusion as the data for WDI for example is referred to in paragraph 18.2.12 as ‘Environment Agency (‘EA’) (2025): Waste Data Interrogator; and EA ‘Remaining Landfill Capacity, England’ (2025)’ and later in the chapter (e.g.18.5.12) is referred to as ‘2024 WDI’. Not sure if this is simply as the result of the 2025 release interrogator being 2024 data known as 2024 WDI? It is also referred to in the TN as ‘Environment Agency Waste Data Interrogator (2024 dataset)’ and ‘Environment Agency Remaining Landfill Capacity – England (2024 dataset)’</p>	<p>The Environment Agency Waste Data Interrogator referenced in the Chapter as “EA (2025)” reflects the publication year of the dataset, while the data contained within that release relates to the 2024 reporting year. The Waste Data Interrogator is typically published with a time lag, meaning the 2025 release contains the most recent available data for the 2024 reporting period.</p> <p>Accordingly, references within the Chapter to “EA (2025): Waste Data Interrogator” relate to the publication year, while references to “2024 WDI” or the “2024 dataset” refer to the reporting year of the underlying waste data. All references therefore relate to the same dataset, and no different or additional data sources have been used within the assessment.</p>
<p>Note table of waste sites (18.14) updated to January 2026</p>	<p>No response required.</p>
<p>Note name change to ISEP guidance</p>	<p>No response required.</p>
<p>Note clarification that metrics are ‘per week’ at paragraph 18.2.33</p>	<p>No response required.</p>
<p>We note that there have been changes to table 18.7 Materials Magnitude Criteria to clarify that data may be regional and/or national baseline</p>	<p>No response required.</p>
<p>Note that paragraph 18.2.52 now states that the Chapter includes 2024 data unless otherwise stated. Without tying ourselves in knots, is this sufficient with the caveat? As some is 2025 (and WDI confusingly is 2024 data published 2025)</p>	<p>The wording in paragraph 18.2.52 stating that the Chapter includes data up to and including 2024, unless otherwise stated, is intended to provide a clear and proportionate description of the baseline data used in the assessment. The majority of datasets applied within Chapter 18 relate to the 2024 reporting year, and therefore this statement accurately reflects the overall baseline.</p> <p>It is recognised that some datasets are published in 2025 but report data for the 2024 reporting year. This is the case for the Environment Agency Waste Data Interrogator and the Environment Agency “Remaining Landfill Capacity – England” dataset. In these instances, the year referenced</p>

	<p>in the text reflects the publication date, while the data itself relates to the 2024 reporting period. These datasets are clearly referenced in the Chapter and Technical Note.</p> <p>On this basis, the wording in paragraph 18.2.52 is considered sufficient as a general statement of data currency, with individual datasets identified where necessary. This approach avoids unnecessary complexity while maintaining transparency regarding the reporting year and publication date of the underlying data.</p>
<p>We note the 5th bullet of paragraph 18.2.52 now has been edited to remove reference to consumption of resources and to be in line with paragraph 18.5.79. Could you clarify, please?</p>	<p>The amendment to the fifth bullet point of paragraph 18.2.52 was made to ensure consistency with the scope of the assessment presented later in the Chapter, specifically paragraph 18.5.79.</p> <p>In the earlier drafting, the wording referenced broader consumption of resources, which could imply a wider lifecycle assessment of material extraction, production and depletion. However, Chapter 18 does not assess upstream resource extraction or full lifecycle resource depletion impacts. Instead, the assessment focuses on materials use during construction and the management of waste arisings, in accordance with the methodology set out in the ISEP Guidance for Materials and Waste in EIA.</p> <p>The revised wording therefore removes the reference to broader resource consumption to avoid implying that a full lifecycle resource assessment has been undertaken. This aligns the limitations section with the actual scope of the Chapter and ensures consistency with paragraph 18.5.79, which explains the boundaries of the materials assessment.</p>
<p>We note that paragraph 18.5.6 has been amended to explain the use of national data to address Point 2 of our Relevant Representations</p>	<p>No response required.</p>
<p>We note that changes have been made to table 18.13 to account for data published after the chapter was submitted</p>	<p>No response required.</p>
<p>We note that changes have been made to table 18.14 to account for data published after the chapter was submitted. This may require explanation or clarification, as it seems to</p>	<p>We are unsure as to which statements in capacity are being referred to.</p>

<p>suggest changes in capacity, contrary to later statements around capacity.</p>	<p>Table 18.14 has been updated to reflect the most recent facility inventory available at the time of the review, which identifies 265 waste management facilities within the Refined Study Area.</p> <p>This update reflects updated facility listings within the Waste Data Interrogator database rather than changes to landfill capacity. The table therefore describes the types and number of operational facilities, whereas landfill capacity is assessed separately using the Environment Agency Remaining Landfill Capacity dataset presented in Table 18.18.</p> <p>Consequently, the update to Table 18.14 does not indicate any reduction in capacity and does not contradict the later analysis of landfill capacity.</p> <p>Action: matters to be discussed in meeting 19.03.2026.</p> <p>This matter was discussed in the meeting on 19 March 2026. The purpose of Table 18.14 is to provide an overarching snapshot of the number and type of all waste management facilities (e.g. landfill, incineration, transfer, treatment etc.) within the Refined Study Area that could potentially accept construction and/or operational waste from EMG2 Project. It does not reflect the waste capacity of any of these facilities.</p> <p>As part of updating Chapter 18 based on the most current WDI data, a more refined filtering of waste management facilities was undertaken which led to a reduction in the total number of waste management facilities within the Refined Study Area that could potentially accept construction and/or operational waste. Although the total number of facilities in Table 18.14 has decreased (from 356 to 265) compared to the Chapter submitted with the application, this has not affected the total remaining Landfill capacity assessment (Table 18.18), which is what the significance assessment is based on.</p>
<p>Noted that table 18.16 has been updated to account for data published after the chapter was submitted</p>	<p>No response required.</p>

<p>It is noted that paragraphs 18.5.17 and 18.5.18 have been consequently re-written</p>	<p>No response required.</p>
<p>Noted that table 18.17 and 18.18 have been updated to account for data published after the chapter was submitted and subsequent commentary re-written</p>	<p>No response required.</p>
<p>A comment both on the TN and these tables, the recalculated landfill capacities I don't get as they are different from the EA data. I've just gone in and turned off Rutland, so not sure if mine are too simplistic (I get 36,426,969 m³ across Leicestershire, Derbyshire and Nottinghamshire in 2024). Paragraph 1.17 of the TN states that for the 3 counties Total remaining capacity in 2024: 30,533,384 m³. Also noted that this is then contradicted somewhat by paragraph 18.5.38 of the tracked Chapter 18 which also says 36,747,144 m³. Maybe this is a point of clarification?</p>	<p>The difference between the landfill capacity figures referenced in the Technical Note (26.02.26 / Enclosure 1) and those derived directly from the Environment Agency dataset arises from the refinement of the dataset used for the assessment.</p> <p>The Environment Agency "<i>Remaining Landfill Capacity – England</i>" dataset provides a national inventory of all permitted landfill sites, including sites that are technically permitted but which, in practice, would not receive waste from the EMG2 Project. When extracting data directly from the dataset for Leicestershire, Derbyshire and Nottinghamshire, a total capacity of approximately 36.4 million m³ may be obtained depending on the filters applied (for example, excluding Rutland).</p> <p>However, for the purposes of the assessment presented in Chapter 18 and the Technical Note, the dataset was further refined to reflect the capacity realistically available to receive waste from the EMG2 Project. This refinement was undertaken following consultation with Nottinghamshire County Council and involved excluding certain landfill facilities identified within the Environment Agency dataset where it was confirmed that waste generated by the EMG2 Project would not be accepted at those facilities.</p> <p>Once these sites were removed from the dataset, the remaining landfill capacity across Leicestershire, Derbyshire and Nottinghamshire was calculated as 30,533,384 m³ for 2024, as presented in Table 18.18 and referenced within the Technical Note.</p> <p>The figure referenced in paragraph 18.5.38 of the tracked Chapter 18 reflects an earlier extraction of the Environment Agency dataset prior to the refinement described above.</p>

	<p>To avoid confusion, the wording in the Chapter has been reviewed and the Chapter has now been further refined and updated to ensure that the distinction between the total theoretical capacity reported by the Environment Agency dataset and the refined capacity used in the assessment is clearly explained. This includes the exclusion of any landfill capacity within Rutland as it is recognised that it is an independent unitary authority.</p>
<p>Noted that paragraph 18.5.23 has been simplified for clarity and to account for new data, but it has arguably taken out explanations of the data</p>	<p>Paragraph 18.5.23 was simplified following the inclusion of updated baseline tables and datasets in the revised Chapter. The intention of this amendment was to reduce duplication between the narrative text and the tabulated data presented elsewhere in the section, and to improve the overall readability of the chapter. The underlying datasets, sources and calculations remain unchanged and are now presented more clearly within the updated tables and accompanying text.</p> <p>The Applicant recognises that the previous wording provided additional explanatory context for the data. However, this information is now captured within the updated baseline tables and supporting paragraphs within Section 18.5. As such, the simplification was intended to streamline the narrative rather than remove substantive explanation. If helpful, the Applicant would be content to reintroduce a short explanatory sentence to further clarify the data interpretation while maintaining a concise presentation of the baseline information.</p>
<p>Noted that table 18.19 and 18.20 have been updated to account for data published after the chapter was submitted</p>	<p>Paragraph 18.5.23 was simplified following the inclusion of updated baseline tables and datasets in the revised Chapter. The intention of this amendment was to reduce duplication between the narrative text and the tabulated data presented elsewhere in the section, and to improve the overall readability of the chapter. The underlying datasets, sources and calculations remain unchanged and are now presented more clearly within the updated tables and accompanying text.</p> <p>The Applicant recognises that the previous wording provided additional explanatory context for the data. However, this information is now</p>

	<p>captured within the updated baseline tables and supporting paragraphs within Section 18.5. As such, the simplification was intended to streamline the narrative rather than remove substantive explanation. If helpful, the Applicant would be content to reintroduce a short explanatory sentence to further clarify the data interpretation while maintaining a concise presentation of the baseline information.</p> <p>Following the meeting on 19 March, the additional explanatory context for the data has now been reinstated into Paragraph 18.5.23 of the Chapter at the request of LCC.</p>
<p>Materials impact recalculation is confusing – the Leicestershire figure for crushed rock production is ‘Leicestershire: 9.56 Mt’, which would indicate it is from the 2024 (2023 data) LAA which I would think would be the same data as the document should have had previously (as it was published Nov 2024). Does this mean it simply wasn’t in the original Chapter 18?</p>	<p>The figure quoted in the Chapter submitted with the application for crushed rock production in Leicestershire (9.52 Mt) is derived from page 25 of LCC’s Authority Monitoring Report 2023-2024 (produced in May 2025).</p> <p>The figure of 9.56 Mt for crushed rock production in Leicestershire is derived from Table 1 of the Leicestershire Local Aggregate Assessment (LAA) 2024, which reports production data for the year 2023. However, it is noted that this LAA also quotes a figure of 9.52 Mt (e.g. on page 3) for crushed rock production in Leicestershire in 2023.</p> <p>The figure quoted in the Chapter submitted with the application for crushed rock production in Leicestershire (9.52 Mt in 2023) is derived from page 25 of LCC’s Authority Monitoring Report 2023-2024 (produced in May 2025).</p> <p>The inclusion of the 9.56 Mt figure therefore represents a refinement and clarification of the baseline data, rather than a change in the underlying assessment approach. Importantly, incorporating this dataset does not materially alter the conclusions of the materials assessment. The recalculation confirms that the proportion of crushed rock potentially required for the EMG2 Project remains well below the thresholds set out within the ISEP magnitude criteria, and the significance of the effect remains unchanged.</p>

	<p>It was discussed at the meeting on 19 March 2026 that an updated Local Aggregate Assessment (LAA) was published by LCC in February 2026, subsequent to the most recent updates to Chapter 18. This latest LAA reports that crushed rock production in Leicestershire increased to 10.71 Mt in 2024. This updated dataset further reinforces the conclusions of the materials assessment as presented in the updated ES Chapter. It was agreed during the meeting that no further update to the assessment is required in light of the latest LAA.</p>
<p>Is there a contradiction between the TN and the tracked Chapter 18 regarding paragraph 1.57 of the TN? It states ‘<i>The quantified review confirms that no recalculated effect crosses a significance threshold and no previously non-significant effect becomes significant.</i>’ It may be just semantics, but it is noted that the tracked Chapter 18 shows a change in significance now at various points (e.g. sensitivity change in tables 18.21, 18.29, 18.31)? Please could you explain? Also at paragraph 18.6.19 the magnitude for material resources consumption is considered Minor from negligible. It is noted that this is still not significant in the following paragraph.</p>	<p>The statement in paragraph 1.57 of the Technical Note refers specifically to the EIA significance test, rather than intermediate changes in sensitivity or magnitude within the assessment tables.</p> <p>Following the application of the updated datasets, some baseline sensitivity classifications have been refined within the tracked Chapter 18 (for example within Tables 18.21, 18.29 and 18.31). These changes reflect updated baseline information, such as revised landfill capacity figures or updated materials production data. However, these refinements occur at the receptor sensitivity stage of the assessment and do not alter the overall outcome of the significance matrix.</p> <p>Under the ISEP methodology applied in Chapter 18, the overall significance of effect is determined through the combination of receptor sensitivity and magnitude of impact. While sensitivity or magnitude may change between categories (for example from negligible to minor), the resulting significance may still remain below the “moderate” threshold that would constitute a significant effect in EIA terms.</p> <p>This is illustrated in paragraph 18.6.19, where the magnitude for material resource consumption changes from negligible to minor following the updated calculations. When this revised magnitude is combined with the relevant receptor sensitivity within the ISEP significance matrix, the resulting effect remains not significant. Accordingly, there is no contradiction between the Technical Note and the tracked Chapter. The</p>

	<p>Technical Note confirms that no recalculated effect crosses the significance threshold, meaning that no effect previously assessed as non-significant becomes significant as a result of the updated data. The changes identified in the tracked Chapter reflect refinements to intermediate assessment parameters rather than changes to the final significance conclusions.</p>
<p>Note table 18.25 and 18.33 addition for clarification regarding soil density rather than weight</p>	<p>No response required.</p>
<p>It is noted table 18.36 has been changed from very high to medium due to data released since the chapter was submitted</p>	<p>No response required.</p>
<p>Table 18.38 has also changed, is this for the same reason?</p>	<p>Yes, the change in Table 18.38 arises for the same reason. The table has been updated to reflect the application of the most recently available baseline datasets, including the updated landfill capacity figures and other supporting data incorporated into the tracked review of Chapter 18.</p> <p>As with the updates to other tables in the Chapter, the recalculation results in some refinement to the sensitivity and/or magnitude inputs used within the assessment matrix. However, when these revised inputs are applied through the ISEP significance matrix, the overall significance of effect remains unchanged.</p> <p>Accordingly, the update to Table 18.38 reflects a refinement of the baseline inputs rather than a change to the assessment conclusions, and the resulting effects remain not significant in EIA terms.</p>
<p>In relation to our final point in the RRs regarding the Site Waste Management Plan (SWMP), as mentioned in the meeting it was felt that the TN missed the point we were making but that a change of wording in the dDCO could address this. I understand that there is a February 2026 version of the dDCO which may address this?</p>	<p>The Applicant acknowledges the point raised in the Relevant Representations regarding the Site Waste Management Plan (SWMP) and the comments made during the meeting that the Technical Note did not fully address the concern raised.</p> <p>Following that discussion, the Applicant has reviewed the drafting within the draft Development Consent Order (dDCO). The February 2026 version of the dDCO includes revised wording intended to clarify the requirement for the preparation and</p>

	<p>implementation of a Site Waste Management Plan during the construction phase. The revised wording is intended to ensure that the SWMP is secured through the DCO and prepared prior to the commencement of the relevant construction works.</p> <p>The Applicant considers that this amendment addresses the concern raised in the Relevant Representations by ensuring that waste management arrangements are appropriately secured within the consenting framework, while allowing the detailed measures to be developed and implemented through the contractor’s environmental management procedures at the construction stage. The Applicant remains open to further discussion with LCC should any additional clarification of the drafting be considered helpful.</p>
<p>Also on a related point, we would ask that there needs to be clarity as to when, how and where monitoring of waste types and quantities will be undertaken and reported as part of the Environmental Management System during construction. Also, of who it will be reported to and so on. Is this something you could clarify, please?</p>	<p>The monitoring of waste types and quantities during construction will be undertaken through the Site Waste Management Plan (SWMP) and the Construction Environmental Management Plan (CEMP), which will form part of the contractor’s Environmental Management System.</p> <p>The SWMP set’s out procedures for the recording, management and monitoring of construction waste, including the types and quantities of waste generated, the routes taken for reuse, recycling, recovery or disposal, and the licensed facilities receiving the waste, and who is responsible. Waste movements will be tracked through the use of waste transfer notes and duty of care documentation, in accordance with the Environmental Protection Act 1990 and the Waste Duty of Care Code of Practice.</p> <p>Monitoring will be undertaken throughout the construction phase, with waste data recorded on an ongoing basis as materials are removed from site. This information will be maintained within the contractor’s environmental management records and used to demonstrate compliance with the SWMP and the waste hierarchy.</p> <p>Reporting of waste management performance will take place through the construction environmental management reporting framework,</p>

	<p>which will include regular monitoring and review of waste generation and recovery performance. These records will be made available to the relevant planning authority and other regulators where required, in accordance with the requirements of the approved management plans secured through the Development Consent Order.</p> <p>This approach is consistent with standard construction environmental management practice and ensures that waste generation, management routes and recovery performance would be monitored, recorded and auditable throughout the construction period. The arrangements described above reflect the information available at the time of writing, with further detail to be developed and agreed through the relevant management plans secured under the Development Consent Order prior to construction commencing.</p>
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Next Steps and Actions

Chapter 18: Materials and Waste will be re-issued to Leicestershire County Council with the minor amendments set out in the table above. The intention is to progress towards agreement on the methodology applied and the conclusions of the assessment, noting that the updated datasets and recalculations do not alter the outcome of the significance testing and do not result in a likely significant effect in EIA terms.

A draft Statement of Common Ground (SoCG) will also be circulated to Leicestershire County Council in with the aim of identifying and, where possible, agreeing the outstanding matters relating to Chapter 18: Materials and Waste. The intention is to progress agreement on the methodology, updated information and assessment conclusions, and to resolve matters collaboratively ahead of the DCO Examination wherever possible.

The Applicant remains committed to engaging proactively to resolve any residual matters and to progressing toward agreement.

Yours sincerely,

[Redacted Signature]

[Redacted Name] **MSc(hons), BSc(hons), CEnv, MIEMA**
Associate Director: Environmental Planning
TT: 0113 233 8000 | M: [Redacted] | W: bwbconsulting.com



Enclosure 1: Technical Note dated 17th March 2026.

Leicester County Council



Date: 26th February 2026

Via Email

BWB Reference: [REDACTED]

SEGRO PROPERTIES LIMITED FOR AN ORDER GRANTING CONSENT FOR THE EAST MIDLANDS GATEWAY PHASE 2 (BC0410001)

RESPONSE TO RELEVANT REPRESENTATIONS BY LCC ON WASTE AND MATERIAL MATTERS

We write further to Leicestershire County Council's ('LCC') Relevant Representations (dated 9th January 2026) taken in respect of Chapter 18 (Materials and Waste) of the Environmental Statement ('ES'). Key matters are presented as follows:

1. *"Inconsistencies and data issues remain, making it difficult to assess impacts. Environmental Statement (ES) Chapter 18 Materials and Waste includes Waste Data Interrogator (WDI) data from 2023. The Waste Data Interrogator 2024 is available. Chapter 18 of the ES should be updated with the latest WDI data.*
2. *The magnitude of impact may be understated due to the way in which national data is used if regional data is not available. This could present a significant impact as insignificant due to the difference in national and regional production of materials and minerals.*
3. *LCC has agreed with the Applicant team that a Site Waste Management Plan (SWMP) will be prepared prior to commencement of construction, in line with relevant legislation and best practice (e.g. CL:AIRE Code of Practice). However, this does not appear to have translated into a requirement in the dDCO".*

Addressing these matters:

1. Consistent Data Sets

- 1.1 The Applicant notes that the data originally submitted has since been updated. Chapter 18 relied on the Waste Data Interrogator ("WDI") 2023 dataset, which was the most up-to-date information reasonably available at the time the ES was prepared and submitted.
- 1.2 Planning Inspectorate Advice Note 9 recognises that, in order for the EIA and NSIP examination process to progress smoothly and proportionately, baseline conditions are typically defined at a clear point in time. The guidance explains that ESs are prepared using information that is

“reasonably available at the time of preparation”, and that subsequent data releases do not ordinarily require updates unless they would materially affect the conclusions. However, in response to LCC’s comments and in the interests of ensuring a shared and up-to-date evidence base, the Applicant has undertaken a review of the newly published dataset and updated the relevant information accordingly.

Update Following Publication of Revised Baseline Data Sets

- 1.3 As a result of the publication of the updated Waste Data Interrogator dataset, the Applicant has undertaken a review of related baseline information to ensure that any consequential changes have been appropriately considered. This has included checking associated datasets and assumptions where relevant to confirm whether the updated WDI data gives rise to any material change in the assessment conclusions:

Updated Data Sources

- 1.4 Updated Local Aggregate Assessments confirm that Derbyshire and Leicestershire remain significant producers of crushed rock, while Nottinghamshire continues to produce sand and gravel at stable levels. Regional production figures remain substantial when considered against the forecast demand generated by the EMG2 Project.
- 1.5 A review of the updated baseline information has been undertaken. The following datasets have been updated and incorporated into the assessment:
- Environment Agency Waste Data Interrogator (2024 dataset);
 - Environment Agency Remaining Landfill Capacity – England (2024 dataset);
 - Department for Business and Trade Monthly Bulletin of Building Materials and Components (December 2025 edition);
- 1.6 All updated data represent the most recent publicly available information at the time of finalising Chapter 18 (dated October 2025).

Review of Materials Baseline

National Materials Availability

- 1.7 The December 2025 Building Materials and Components Bulletin confirms that national production and sales of key construction materials remain stable. National outputs for sand and gravel, crushed rock, asphalt, ready-mix concrete and steel continue to demonstrate sufficient supply to meet construction demand across England.
- 1.8 No evidence has been identified of structural supply shortages or material constraints that would materially affect the availability of construction materials for the EMG2 Project.

Regional Materials Availability

- 1.9 Updated Local Aggregate Assessments confirm that Derbyshire and Leicestershire remain significant producers of crushed rock, while Nottinghamshire continues to produce sand and gravel

at stable levels. Regional production figures remain substantial when considered against the forecast demand generated by the EMG2 Project.

- 1.10 Recalculation of the EMG2 Project's material demand as a percentage of regional and national availability confirms that no individual material type exceeds 1% of regional or national baseline availability. In accordance with the ISEP magnitude criteria, this remains within the "Negligible" category.
- 1.11 There has therefore been no change to:
- The sensitivity of materials receptors;
 - The magnitude classification; or
 - The significance of effects.

Review of Waste Baseline

National Landfill Capacity

- 1.12 The Environment Agency's 2024 Remaining Landfill Capacity dataset indicates that total remaining landfill void capacity across Leicestershire, Derbyshire and Nottinghamshire is approximately 30.53 million cubic metres. This represents a reduction of approximately 1.7% compared to the previous year.
- 1.13 While landfill capacity continues to decrease incrementally as a result of ongoing disposal activity, the scale of remaining void space remains substantial in absolute terms.
- 1.14 Remaining landfill capacity in England (excluding the three assessed counties):

Total 2024 capacity: 300,297,671 m³

- 1.15 No material change to national capacity has been identified that would affect the proportional assessment.

Regional Landfill Capacity

- 1.16 The Environment Agency Remaining Landfill Capacity dataset has been updated from the 2023 to the 2024 position.
- 1.17 Across Leicestershire, Derbyshire and Nottinghamshire combined:
- **Total remaining capacity in 2023:** 31,071,621 m³
 - **Total remaining capacity in 2024:** 30,533,384 m³
- 1.18 This represents:
- **Absolute reduction:** 538,237 m³
 - **Percentage reduction:** 1.73%

- 1.19 Breakdown by category shows:

- Leicestershire non-hazardous capacity reduced by 621 m³ (3.07%)
- Leicestershire inert capacity reduced by 157,120 m³ (1.27%)
- Derbyshire non-hazardous (incl. stable hazardous cells) reduced by 613,010 m³ (14.84%)
- Nottinghamshire inert reduced by 44,179 m³ (2.88%)

1.20 No new hazardous merchant or restricted hazardous landfill capacity has been identified.

Sensitivity Test

1.21 Although total landfill void capacity across the Refined Study Area has reduced by 538,237 cubic metres between 2023 and 2024, representing a year-on-year decrease of approximately 1.73%, the remaining available capacity of approximately 30.53 million cubic metres remains substantial in absolute terms. This level of remaining void space continues to provide a significant buffer within the regional waste management system and does not indicate any immediate risk of capacity constraint.

1.22 In accordance with the Institute of Sustainability and Environmental Professionals (ISEP) guidance, a landfill receptor would typically be reclassified to “High” or “Very High” sensitivity where there is evidence of a considerable reduction in baseline capacity—generally within the range of 6–10% or greater—or where remaining capacity is demonstrably approaching exhaustion such that new infrastructure or additional void space would be required to accommodate forecast demand.

1.23 The observed reduction of 1.73% does not fall within this higher sensitivity threshold and does not indicate that landfill capacity within the Refined Study Area is approaching exhaustion. There is no evidence that additional landfill provision would be required as a result of baseline conditions alone, nor that the regional system is under abnormal pressure.

1.24 Accordingly, the sensitivity classification applied within Chapter 18 remains appropriate and unchanged.

Recalculation of EMG2 Project Materials Impact

1.25 Updated December 2025 Building Materials Bulletin data confirms:

National Production:

- Sand and gravel: 41.9 Mt
- Crushed rock: 131.8 Mt
- Asphalt: 24.4 Mt
- Ready-mix concrete: 12.3 Mm³
- Steel: 5.6 Mt

1.26 Regional crushed rock production:

- Derbyshire: 14.59 Mt
- Leicestershire: 9.56 Mt

1.27 Even at maximum parameter assumptions, EMG2 material demand represents substantially less than 1% of regional production for any primary material category.

1.28 No material category has crossed the 1% magnitude threshold.

1.29 Accordingly:

- Magnitude remains: **Negligible**
- Sensitivity remains: **Low**
- Significance remains: **Not Significant**

Re-calculation of EMG2 Project's Impact on the Disposal of Waste

Updated Waste Arisings Data – Quantified Review

1.30 The Environment Agency Waste Data Interrogator (2024) confirms that across Leicestershire, Derbyshire and Nottinghamshire approximately 2.98 million tonnes of construction and demolition (C&D) waste were received in 2024. Of this total, approximately 72% was diverted to recycling, recovery, treatment or transfer facilities, with approximately 28% disposed of to landfill.

1.31 This diversion rate remains broadly consistent with historic trends and confirms that recovery infrastructure within the Refined Study Area remains well established

1.32 Total C&D waste received across the Refined Study Area:

- **2024 total:** 2,985,389 tonnes

1.33 Of which:

- 832,594 tonnes (28%) sent to landfill.
- 2,152,795 tonnes (72%) diverted to recovery/treatment.

1.34 These diversion rates remain consistent with national performance and demonstrate continued strong recovery capacity.

1.35 Operational facility capacity within the Refined Study Area remains:

- **Landfill capacity:** 1.38 Mt per annum
- Recycling/recovery capacity: 3.24 Mt per annum

1.36 No evidence has been identified of material reductions in operational waste management capacity since the previous baseline.

Capacity Analysis

1.37 The construction phase assessment has been reviewed using updated landfill capacity figures and updated waste diversion rates. Conservative assumptions remain embedded within the assessment, including:

- Peak construction year benchmarking;
- Upper-bound density assumptions;
- Precautionary recovery rates of 70%;
- Maximum parameter scenario for development floorspace and earthworks.

- 1.38 Recalculation confirms that construction waste arisings would continue to reduce regional landfill capacity by less than 1%. As such, effects remain negligible and not significant in EIA terms.
- 1.39 Operational waste generation estimates have been reviewed against updated DEFRA waste statistics and regional recovery infrastructure data. The assumed recovery rate of 70% remains precautionary relative to current national performance.
- 1.40 Recalculated landfill demand associated with operational waste remains well below 1% of available regional capacity. Sensitivity and magnitude classifications remain unchanged.
- 1.41 The EMG2 Project's forecast construction and operational landfill arisings were again benchmarked against the updated 2024 capacity of 30,533,384 m³.
- 1.42 Using the worst-case construction waste forecast (as set out in Chapter 18 - Materials and Waste), the proportional reduction in landfill void capacity remains:
- <1% of regional capacity
- 1.43 Even if the full construction landfill arisings were hypothetically disposed within a single year (which represents a conservative assumption), the proportional reduction remains well below the 1% threshold for "Minor" magnitude under ISEP Method W1.
- 1.44 The 1.73% reduction in baseline capacity between 2023 and 2024 does not alter the EMG2 Project's classification because:
- The project's waste volumes have not increased;
 - The proportional relationship to total void capacity remains negligible.
- 1.45 Accordingly:
- Magnitude remains: **Negligible**
 - Sensitivity remains: **Low to Medium**
 - Significance remains: **Not Significant**

Energy from Waste Infrastructure

- 1.46 Energy from Waste (EfW) capacity within the Refined Study Area has been reviewed and updated to reflect the operational status of facilities such as the Newhurst Energy Recovery Facility. The availability of EfW infrastructure further supports landfill diversion and recovery assumptions applied within Chapter 18.
- 1.47 The operational status of the Newhurst Energy Recovery Facility has been confirmed:
- **Capacity:** 455,000 tonnes per annum
 - **Electricity generation:** 42 MW
- 1.48 Additional EfW facilities within the Refined Study Area provide further recovery capacity in excess of 400,000 tonnes per annum combined.

- 1.49 The updated recovery infrastructure strengthens the landfill diversion baseline rather than weakening it.

Cumulative Effect

- 1.50 No evidence has been identified of any major landfill closures within the Refined Study Area that would materially reduce available void capacity beyond the incremental year-on-year changes already reported. Similarly, there is no indication of significant competing developments coming forward that would substantially increase demand for landfill capacity within the same timeframe as the EMG2 Project. A review of available planning and waste management information also confirms that there have been no material reductions in recycling, recovery or transfer capacity across Leicestershire, Derbyshire or Nottinghamshire.
- 1.51 The observed 1.73% year-on-year reduction in total landfill capacity reflects normal operational depletion rather than a structural change in waste management infrastructure. In proportional terms, this modest reduction does not materially affect the cumulative baseline against which the EMG2 Project has been assessed. The relative scale of the Project's forecast landfill arisings remains negligible when considered alongside the remaining regional capacity and the continued availability of recovery infrastructure.
- 1.52 Accordingly, the cumulative assessment conclusions set out in Chapter 18 remain valid. Cumulative effects continue to be assessed as negligible to minor in magnitude and are not significant in EIA terms.

Conclusion

- 1.53 The updated datasets demonstrate that total regional landfill void capacity has reduced by 1.73% between 2023 and 2024, reflecting normal year-on-year depletion through ongoing disposal activity rather than any structural contraction in infrastructure provision. At the same time, construction and demolition waste continues to achieve high diversion rates, with approximately 72% of C&D waste managed through recycling, recovery or treatment routes rather than landfill. Operational waste management infrastructure within the Refined Study Area remains stable, with no identified reduction in recycling or recovery capacity and, in some instances, strengthened energy recovery provision. Regional materials production levels also remain robust, with aggregate and construction material outputs continuing at substantial volumes relative to forecast project demand.
- 1.54 Recalculation of the EMG2 Project's construction and operational waste arisings against the updated 2024 landfill capacity confirms that the Project's proportional contribution to regional void depletion remains below 1% of total available capacity. This remains firmly within the "Negligible" magnitude category under the applicable ISEP criteria. The quantified review therefore confirms that no recalculated effect exceeds a significance threshold and that no effect previously assessed as non-significant has become significant as a result of the updated baseline information.

In summary:

- 1.55 The updated datasets demonstrate:
- A 1.73% reduction in total regional landfill capacity between 2023 and 2024;
 - Continued high diversion rates (72%) for C&D waste;

- Stable or increased recovery infrastructure capacity;
- Robust regional materials production levels.

- 1.56 Recalculation confirms that the EMG2 Project's proportional impact on landfill void capacity remains below 1% of total regional capacity.
- 1.57 The quantified review confirms that no recalculated effect crosses a significance threshold and no previously non-significant effect becomes significant.
- 1.58 Accordingly, Chapter 18 (dated October 2025) remains a robust and proportionate assessment of materials and waste.

2. Magnitude of Effect

- 2.1 The Applicant notes LCC's concern regarding the use of national datasets where regional data is unavailable. Planning Inspectorate Advice Note 7 recognises that professional judgement is required where data limitations exist and that the use of proxy or higher-level datasets may be appropriate, provided that assumptions are transparent and the assessment remains proportionate.
- 2.2 Advice Note 9 further cautions against delaying decision-making in pursuit of complete or ideal datasets where sufficient information already exists to assess likely significant effects. This is particularly relevant in the NSIP context, where the examination process depends upon clearly defined parameters and a stable evidence base.
- 2.3 In this regard, DMRB LA 110 provides an accepted technical framework for applying conservative assumptions where data resolution is limited. National datasets have been used transparently and precautionarily within Chapter 18, and there is no evidence that this approach has resulted in an understatement of impact magnitude or the misclassification of significant effects as insignificant.
- 2.4 Importantly, this approach forms part of the same methodology presented during the Scoping and pre-application engagement, at which time no objections were raised.

3. Site Waste Management Plan (SWMP)

- 3.1 For clarity, the Applicant notes that a Site Waste Management and Materials Plan (SWMMP) was drafted in support of Environmental Statement Chapter 18 (Materials and Waste) as referenced in paragraph 18.1.3.
- 3.2 The SWMMP is provided as Appendix E to Chapter 18, with Document Reference: DCO 6.18E, and is publicly available at the following location:
- <https://nsip-documents.planninginspectorate.gov.uk/published-documents/BC0410001-000625-DCO%206.18E%20Appendix%20E%20Site%20Waste%20Management%20and%20Materials%20Plan.pdf>
- 3.3 The SWMMP has been prepared in accordance with relevant legislation and best practice guidance, including the CL Code of Practice, as stipulated within the Environmental Statement. It

demonstrates how materials management and waste minimisation will be addressed during construction and provides the framework to be taken forward and refined as part of the detailed construction management process.

4. Next Steps and Actions

- 4.1 The Technical Consultant has contacted Leicestershire County Council to arrange a meeting at the earliest opportunity to discuss these matters in detail. This meeting will provide LCC with the opportunity to review the updated analysis, seek clarification where necessary, and confirm whether the additional information satisfactorily addresses its outstanding points. The Applicant remains committed to engaging proactively to resolve any residual matters and to progressing toward agreement.

Yours sincerely,

██████████

██████████ MSc(hons), BSc(hons), CEnv, MIEMA

Associate Director: Environmental Planning

TT: 0113 233 8000 | M: ██████████ | W: bwbconsulting.com





Enclosure 2: Email Correspondence

From: [REDACTED]
Sent: 13 March 2026 12:43
To: [REDACTED]
Subject: RE: EMG 2 Materials and Waste Discussion

This email originated from outside of our organisation. Please exercise caution with content, links and attachments.

Good afternoon, [REDACTED]

Many thanks for this. Yes, I am free on Thursday of next week. I have meetings on Wednesday so fitting things in could be more challenging. I'm flexible on timings at present on Thursday 19th March (barring school pickup) so can fit around you. Is 10am any good? Or 13.00 to 14.00?

I look forward to reading your Technical Note.

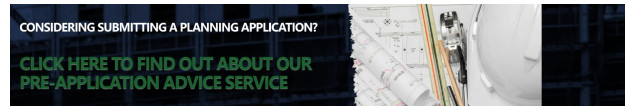
Have a good weekend.

Kind regards

Leo

Leo Oliver
Senior Planning Officer
Planning, Historic and Natural Environment
Environment & Transport Department
Leicestershire County Council
County Hall
Glenfield
LE3 8RA

01163059837
[REDACTED]



From: Matthew Wilby <Matthew.Wilby@bwbconsulting.com>
Sent: 13 March 2026 10:52
To: Leo Oliver <Leo.Oliver@leics.gov.uk>; Oliver Meek <Oliver.Meek@leics.gov.uk>
Cc: karin@deltaplanning.co.uk; david@deltaplanning.co.uk; Ian Rigby <ian.rigby@segro.com>; Ronan Monaghan <Ronan.Monaghan@bwbconsulting.com>
Subject: RE: EMG 2 Materials and Waste Discussion

Morning Leo,

Thanks for providing your comments. In terms of addressing them, I wonder if a call to discuss might be easier? Is there a time that suits you? Wednesday and Thursday are particularly good for my availability.

In the meantime, we will review the below and return an updated technical note for you.

Enjoy your weekend.

Matt

Matt Wilby CEnv, MISEP, MSc(hons), BSc(hons)
Director of Climate Solutions | BWB Consulting Limited

TT: 0113 233 8000 | M: 07919 496 936 | W: bwbconsulting.com



[Book time to meet with me](#)

From: Leo Oliver [REDACTED]
Sent: 13 March 2026 08:31
[REDACTED]

Subject: RE: EMG 2 Materials and Waste Discussion

This email originated from outside of our organisation. Please exercise caution with content, links and attachments.

Good morning, [REDACTED]

Many thanks for your (and the others') time the other day (3rd March) and for following up with us. The meeting and Technical Note (TN) went some way to address concerns and clarify matters. The tracked Environmental Statement (ES) Chapter 18 Materials and Waste is also helpful in this regard and the 'Note to LCC' references within the latter also help.

I have been looking in detail and getting my head around this so apologies for the delay.

It may be useful to have another chat or to have some further clarification in whatever format suits you. I appreciate you're all very busy people. We have the following comments at present from the TN and tracked Chapter 18:

- Note changes to paragraph 18.12 of tracked Environmental Statement (ES) Chapter 18 Materials and Waste
- There still remains some confusion as the data for WDI for example is referred to in paragraph 18.2.12 as 'Environment Agency ('EA') (2025): Waste Data Interrogator^[1]; and EA 'Remaining Landfill Capacity, England' (2025)^[2] and later in the chapter (e.g.18.5.12) is referred to as '2024 WDI'. Not sure if this is simply as the result of the 2025 release interrogator being 2024 data known as 2024 WDI? It is also referred to in the TN as 'Environment Agency Waste Data Interrogator (2024 dataset)' and 'Environment Agency Remaining Landfill Capacity – England (2024 dataset)'
- Note table of waste sites (18.14) updated to January 2026

- Note name change to ISEP guidance
- Note clarification that metrics are 'per week' at paragraph 18.2.33
- We note that there have been changes to table 18.7 Materials Magnitude Criteria to clarify that data may be regional and/or national baseline
- Note that paragraph 18.2.52 now states that the Chapter includes 2024 data unless otherwise stated. Without tying ourselves in knots, is this sufficient with the caveat? As some is 2025 (and WDI confusingly is 2024 data published 2025)
- We note the 5th bullet of paragraph 18.2.52 now has been edited to remove reference to consumption of resources and to be in line with paragraph 18.5.79. Could you clarify, please?
- We note that paragraph 18.5.6 has been amended to explain the use of national data to address Point 2 of our Relevant Representations
- We note that changes have been made to table 18.13 to account for data published after the chapter was submitted
- We note that changes have been made to table 18.14 to account for data published after the chapter was submitted. This may require explanation or clarification, as it seems to suggest changes in capacity, contrary to later statements around capacity
- Noted that table 18.16 has been updated to account for data published after the chapter was submitted
- It is noted that paragraphs 18.5.17 and 18.5.18 have been consequently re-written
- Noted that table 18.17 and 18.18 have been updated to account for data published after the chapter was submitted and subsequent commentary re-written
- A comment both on the TN and these tables, the recalculated landfill capacities I don't get as they are different from the EA data. I've just gone in and turned off Rutland, so not sure if mine are too simplistic (I get 36,426,969 m³ across Leicestershire, Derbyshire and Nottinghamshire in 2024). Paragraph 1.17 of the TN states that for the 3 counties **Total remaining capacity in 2024: 30,533,384 m³**. Also noted that this is then contradicted somewhat by paragraph 18.5.38 of the tracked Chapter 18 which also says 36,747,144 m³. Maybe this is a point of clarification?
- Noted that paragraph 18.5.23 has been simplified for clarity and to account for new data, but it has arguably taken out explanations of the data
- Noted that table 18.19 and 18.20 have been updated to account for data published after the chapter was submitted
- Materials impact recalculation is confusing – the Leicestershire figure for crushed rock production is 'Leicestershire: 9.56 Mt', which would indicate it is from the 2024 (2023 data) LAA which I would think would be the same data as the document should have had previously (as it was published Nov 2024). Does this mean it simply wasn't in the original Chapter 18?
- Is there a contradiction between the TN and the tracked Chapter 18 regarding paragraph 1.57 of the TN? It states '*The quantified review confirms that no recalculated effect crosses a significance threshold and no previously non-significant effect becomes significant.*' It may be just semantics, but it is noted that the tracked Chapter 18 shows a change in significance now at various points (e.g. sensitivity change in tables 18.21, 18.29, 18.31)? Please could you explain? Also at paragraph 18.6.19 the magnitude for material resources consumption is considered Minor from negligible. It is noted that this is still not significant in the following paragraph.
- Note table 18.25 and 18.33 addition for clarification regarding soil density rather than weight
- It is noted table 18.36 has been changed from very high to medium due to data released since the chapter was submitted
- Table 18.38 has also changed, is this for the same reason?
- In relation to our final point in the RRs regarding the Site Waste Management Plan (SWMP), as mentioned in the meeting it was felt that the TN missed the point we were making but that a change of wording in the dDCO could address this. I understand that there is a February 2026 version of the dDCO which may address this?
- Also on a related point, we would ask that there needs to be clarity as to when, how and where monitoring of waste types and quantities will be undertaken and reported as part of the Environmental Management System during construction. Also, of who it will be reported to and so on. Is this something you could clarify, please?

Kind regards

Leo

Leo Oliver
Senior Planning Officer
Planning, Historic and Natural Environment
Environment & Transport Department
Leicestershire County Council
County Hall
Glenfield
LE3 8RA

CONSIDERING SUBMITTING A PLANNING APPLICATION?

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PRE-APPLICATION ADVICE SERVICE

From: Matthew Wilby <Matthew.Wilby@bwbconsulting.com>

Subject: RE: EMG 2 Materials and Waste Discussion

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Morning

Just following up on the below to see if you need anything additional from or if you wish to re-arrange a call?

I am travelling over the next two days but I will be able to find time in between should you need it.

All the best,

CEnv, MISEP, MSc(hons), BSc(hons)
Director of Climate Solutions | BWB Consulting Limited

TT: 0113 233 8000 | M: [REDACTED] | W: bwbconsulting.com



[Book time to meet with me](#)

Hi [REDACTED]

Further to the below, to assist with these matters I have agreed with the client team that we can circulate a tracked-changes version of Chapter 18 for transparency, allowing you to review our amendments in full.

Please note that we will not be able to formally submit this, as previously discussed, but we hope it will nonetheless be helpful

All the best,

[REDACTED]

[REDACTED] CEnv, MISEP, MSc(hons), BSc(hons)
Director of Climate Solutions | BWB Consulting Limited

TT: 0113 233 8000 | M: [REDACTED] | W: bwbconsulting.com



[Book time to meet with me](#)

Subject: RE: EMG 2 Materials and Waste Discussion

Hi Leo / Oliver,

Just following up on my voicemails; I'm conscious that you may still have some clarifications on our technical note / revised assessment and want to make sure that we work collaboratively with you to address them in a way that works best for you. Mindful of what is a tight programme, I also want to make sure that we have enough time to hopefully come to an agreement and avoid these matters at examination, which I am sure we can agree would be best for all of us.

Leo did mention that there were some specific matters that maybe needed a conversation in your absence, Oliver. I appreciate you're a very busy person in the unfortunate absence of Julie - if we can accommodate a meeting to suit you please let us know. Otherwise, shall we wait for more specifics to come by email?

I am no longer at a conference so able to pick up phone calls / emails if you wish to follow-up.

All the best,

[REDACTED]

[REDACTED] CEnv, MISEP, MSc(hons), BSc(hons)
Director of Climate Solutions | BWB Consulting Limited

TT: 0113 233 8000 | M: [REDACTED] | W: bwbconsulting.com



[Book time to meet with me](#)

From: Matthew Wilby

Subject: RE: EMG 2 Materials and Waste Discussion

Good afternoon, Leo.

It was good to catch up with you yesterday. I'm sorry that Oliver was unable to attend.

It was helpful to run through the reassessment together. As discussed, the key point is that the significance test has been re-run and the conclusions remain unchanged. During the meeting we also covered a few minor points of clarification regarding the Environment Agency dataset, particularly where it appears to include sites outside of Leicestershire County Council's jurisdiction (an error by the EA). For ease of reference, I have summarised our responses to those points below.

• **Landfill Remaining Data**

You noted that Grange Top Quarry in Rutland falls outside the wider study area and asked for confirmation that it was excluded. You also mentioned that the Kingsbury Road site is not within Leicestershire. Both of these sites are referenced in the chapter only in relation to hazardous waste capacity (see the first extract below). As there are no hazardous waste landfill facilities within the 30-mile study area, the capacity and sensitivity of hazardous waste landfill sites were assessed at a regional (East Midlands) and national level.

• **Crushed Stone vs. Sand and Gravel**

You also raised the possibility of a mix-up between crushed stone and sand/gravel, referencing Cliffe Hill Quarry. In the chapter we mention Cliffe Hill in the context of potential future sand and gravel extraction within Leicestershire (see the second extract below). From our review, the quarry predominantly extracts igneous rock used to produce high-specification aggregates, asphalt and concrete products. While it may have been more appropriate to categorise the site under crushed stone within the table, this does not materially alter the dataset or the conclusions presented in the assessment.

The key point at this stage is whether LCC is content with the methodology applied, and therefore with the assessment and conclusions set out in the chapter, particularly the outcome of the significance test.

We also recognise that datasets will inevitably continue to be updated over time, as noted in Advice Note 9. However, at some stage it will be necessary to draw a line under the reassessment, noting that the purpose of the exercise is to confirm whether the methodology applied and the resulting significance conclusions are considered robust. While minor data changes may occur, in our opinion, they are unlikely to materially alter the conclusions of the significance test given the sale of the baseline.

In terms of **next steps**, the project has now entered the examination period and our focus is on progressing agreement where possible, particularly through the Statement of Common Ground (SoCG). A draft SoCG is due to be submitted by 7 April, so it would be helpful to confirm agreement on as many points as possible ahead of that deadline – if amendments to the Technical Note to capture the conversation above would be help in this matter, please let us know.

As the application is now in examination, there is no mechanism for circulating updated ES chapters. We appreciate that Oliver was not able to clarify all of his points during the meeting and we are of course happy to assist where we can. However, it would be helpful to now focus on resolving the remaining points and working towards agreement of the SoCG.

Please let me know if you would like to discuss any of the points further.



CEnv, MISEP, MSc(hons), BSc(hons)
Director of Climate Solutions | BWB Consulting Limited

TT: 0113 233 8000 | M: [REDACTED] | W: bwbconsulting.com



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-----Original Appointment-----

From: Ronan Monaghan <Ronan.Monaghan@bwbconsulting.com>

Sent: 18 February 2026 09:45

To: Ronan Monaghan; Matthew Wilby; Leo Oliver; Oliver Meek

Cc: Karin Hartley

Subject: EMG 2 Materials and Waste Discussion

When: 03 March 2026 10:00-11:00 (UTC+00:00) Dublin, Edinburgh, Lisbon, London.

Where: Microsoft Teams Meeting

Microsoft Teams meeting

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For organizers: [Meeting options](#)

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^[i] Environment Agency (2025): 2024 Waste Data Interrogator: <https://www.data.gov.uk/dataset/81f9d676-e77c-4d68-ab0e-b67e0b0b355e/2024-waste-data-interrogator>

^[ii] EA 'Remaining Landfill Capacity, England' (2025): <https://www.data.gov.uk/dataset/237825cb-dc10-4e53-8446-1bcd35614c12/remaining-landfill-capacity1>

ANNEX 12A

**RESPONSE TO PROLOGIS WRITTEN REPRESENTATIONS –
EXTRACT FROM DIRFT S35 DIRECTION**

DIRFT IV

Request for a Direction from the
Secretary of State under Section
35 of the Planning Act 2008

PROLOGIS UK LIMITED
18 NOVEMBER 2025

Reasons for seeking a direction under Section 35

- 4.19 Overall and in summary, the reasons for seeking a direction under s35 are linked to the national significance of the Proposed Development and the complexities of delivering such a project through alternative consenting. The Project proposes the creation of an advanced industrial logistics park of significant scale, with the potential to make a transformational contribution towards the capacity of DIRFT and the success of the UK's rail freight and logistics industry. The Project is nationally significant and should therefore be considered at a national level.
- 4.20 To put the proposals within context, the proposed development is estimated to generate a construction value of over £1bn over 10 years and involve a GVA contribution of £195 million annually during construction from direct and indirect FTE jobs. Once operational, the annual GVA contribution of DIRFT IV is estimated to rise up to £228 million.
- 4.21 In addition to the financial implications of the Project, its position with respect to the existing DIRFT estate and location in the Midlands constitutes the Project as strategically important in both regional and national contexts. It will be central to the delivery of Government ambitions in the sector, supporting the growth of rail-served warehousing and promoting a modal shift towards rail freight. The Proposed Development offers the opportunity to reduce the stress on the strategic highway network and reducing emissions, assisting the Government in achieving climate targets. These matters are best considered against national objectives, with the DCO process likely to ensure appropriate weight is given to those issues which have benefits beyond the local catchment. It would also ensure a timely delivery of a decision, given the statutory timeframe imposed on DCO submissions.
- 4.22 In addition, it is noted that to deliver the Project, powers of compulsory acquisition are likely to be required as private treaty negotiations on land rights cannot be guaranteed. Notwithstanding that Prologis has agreed positions on land control across the site, the consideration and grant of these powers through the DCO process would assist in this delivery of the Project, reducing uncertainty and risk of inconsistency in consenting.
- 4.23 Hence, the Project would benefit from the DCO consenting process, and as such, there is a necessity to pursue a s35 direction from the Secretary of State.

5.0 QUALIFYING AS A S35 DEVELOPMENT

- 5.1 Section 35(1) of the PA 2008 states that the SoS may give a direction for development to be treated as development for which development consent is required.
- 5.2 An application can only be made in response to a "qualifying request" made by a "person who proposes to carry out any of the development to which the request relates" (Section 35ZA (2)). As above, it is confirmed that this application is submitted by Prologis who intend to carry out the proposed development.
- 5.3 The provisions of s35 confirm that:
(2) *The Secretary of State may give a direction under subsection (1) only if—*
(a) *the development is or forms part of—*
... (i) a business or commercial project (or proposed project) of a prescribed description,
(b) *the development will (when completed) be wholly in one or more of the areas specified in subsection (the development would be solely within England), and*
(c) *the Secretary of State thinks the project (or proposed project) is of national significance, either by itself or when considered with—*
... (ii) in a case within paragraph (a)(iii), one or more other business or commercial projects (or proposed projects) of a description prescribed under paragraph (a)(iii) (text highlighted for our emphasis).
- 5.4 Addressing these requirements in turn, the Proposed Development is a business or commercial project, involving the creation of an **advanced industrial logistics park**. The Infrastructure Planning (Business or Commercial Projects) Regulations 2013 set out the **prescribed description** for the purpose of the application of S.35(2)(a)(i). A project is a prescribed project if it consists "wholly or mainly of ... the construction of buildings or facilities for use for the purposes of one or more of the matters in the Schedule to these Regulations." The proposed development will be constructed and used wholly or mainly for the purposes of storage and distribution of goods, industrial processes and offices, all of which are included in the Schedule to the Regulations.
- 5.5 As above, the Proposed Development is located **wholly within England** and this request is made by Prologis, who propose to carry out the development should a DCO be forthcoming.
- 5.6 With the Project qualifying as a proposed business or commercial project of a prescribed description and a scheme that falls solely within England, this statement continues by detailing the national significance of the scheme (i.e. the final criterion against which s35 submissions are to be assessed).

ANNEX 12B

**RESPONSE TO PROLOGIS WRITTEN REPRESENTATIONS – NWL
LOCAL PLAN COMMITTEE - SPD**

MEETING OF THE LOCAL PLAN COMMITTEE

WEDNESDAY, 18 MARCH 2026

ADDITIONAL PAPERS

CONTENTS

Item		Pages
8	EAST MIDLANDS FREEPORT CONTRIBUTIONS SUPPLEMENTARY PLANNING DOCUMENT (SPD)	
	East Midlands Freeport Contributions SPD	3 – 8
	Appendix A	9 – 40

Title of Report	EAST MIDLANDS FREEPORT CONTRIBUTIONS SUPPLEMENTARY PLANNING DOCUMENT (SPD)	
Presented by	[REDACTED] Interim Planning Policy Team Manager	
Background Papers	<u>National Planning Policy Framework</u>	Public Report: Yes
Financial Implications	The cost of taking forward the Freeport SPD is met from existing budgets Signed off by the Section 151 Officer: Yes	
Legal Implications	The preparation of the Supplementary Planning Document (SPD) will need to comply with the Town and Country Planning (Local Planning) (England) Regulations 2012 Signed off by the Monitoring Officer: Yes	
Staffing and Corporate Implications	Resource implications for planning policy officers for coordinating the consultation and reviewing representations. Signed off by the Head of Paid Service: Yes	
Purpose of Report	To seek authority to undertake a consultation on the Draft East Midlands Freeport Contributions Supplementary Planning Document.	
Recommendations	<p>THAT THE LOCAL PLAN COMMITTEE:</p> <p>(I) AGREES TO UNDERTAKE A MINIMUM FOUR WEEK CONSULTATION ON THE DRAFT EAST MIDLANDS FREEPORT CONTRIBUTIONS SUPPLEMENTARY PLANNING DOCUMENT (APPENDIX A); AND</p> <p>(II) DELEGATES AUTHORITY TO THE STRATEGIC DIRECTOR OF PLACE TO AGREE ANY MINOR MODIFICATIONS TO THE FINAL CONSULTATION DRAFT SUPPLEMENTARY PLANNING DOCUMENT PRIOR TO CONSULTATION COMMENCING.</p>	

1.0 BACKGROUND

- 1.1 This report seeks agreement to undertake consultation on the East Midlands Freeport Contributions Supplementary Planning Document ('the SPD'). This is a document that has been prepared by Turley and Pinsent Masons on behalf of the Freeport and applies to the three East Midland Freeport sites in North West Leicestershire, Rushcliffe and South Derbyshire.

2.0 FREEPORT OVERVIEW

- 2.1 East Midlands Freeport (EMF) was approved by Government in 2023 and provides businesses located within its designated "tax sites" with financial incentives to enable economic growth, stimulate innovation, and to create regional investment and employment opportunities.

- 2.2 The EMF comprises three 'tax' sites, respectively falling within the three different local authority administrative boundaries:

- East Midlands Airport Gateway and Industrial Cluster (EMAGIC) situated within the District.
- Ratcliffe-on-Soar Power Station (Ratcliffe) in Rushcliffe Borough, Nottinghamshire.
- East Midlands Intermodal Park (EMIP) in South Derbyshire District, Derbyshire.

- 2.3 To support the delivery and operation of the Freeport Sites, certain strategic infrastructure is required. This has been informed through evidence commissioned by the EMF, notably several transport assessments, which are summarised below:

- The Strategic Transport Investment Plan (STIP) assesses transport interventions across the East Midlands Combined County Authority (EMCCA) and EMF areas. Using the National Highways/Derbyshire County Council strategic gateway model, it identifies junctions likely to be impacted by the Freeport development. Midlands Connect and EMF organised the STIP into three packages: Package 1 covers interventions directly tied to EMF sites (such as the M1 J24 improvements), Package 2 addresses those indirectly influenced (such as the Tram extension to Ratcliffe-on-Soar and East Midlands Parkway), and Package 3 focuses on broader regional activities (such as reinstated rail services between Coventry, Leicester and Nottingham).
- The Detailed Transport Investment Plan (DTIP) expanded the Leicestershire County Council Pan Regional Transport Model to cover all three EMF Tax sites, mainly package 1 from the STIP, and evaluated mitigation impacts to strengthen the investment case.
- EMIP DCO Application Evidence: In 2018, comprehensive highway impact and mitigation documentation was prepared in support of the DCO application for EMIP in South Derbyshire (yet to be submitted). These interventions remain valid and are incorporated within the DTIP work.
- Ratcliffe on Soar Local Development Order: Identifies a series of highway and transport interventions to be tested through the detailed design process.

2.4 The Freeport considers that there is a sufficient evidence base to establish the principle of the need for pooled contributions to strategic infrastructure from multiple sites. Given the nature of the Freeport sites, which sit in distinct locations within different Local Planning Authorities (LPAs), alongside the wider growth within the surrounding area, a mechanism is required to assist with the collaborative and co-ordinated delivery of Strategic Infrastructure.

3.0 PURPOSE OF THE SPD

3.1 The purpose of the draft SPD (in Appendix A) is to ensure the coordinated and collaborative delivery and funding of the necessary strategic infrastructure (discussed further below) that is required to support development of the three EMF sites and to establish a mechanism that ensures that all schemes coming forward on the EMF sites contribute towards that strategic infrastructure on an equitable and proportionate basis.

3.2 In addition, the SPD will ensure that strategic allocations in the adopted and emerging Local Plans, which are not within the EMF sites but that will also benefit from the strategic infrastructure delivered to facilitate the EMF sites, make appropriate and proportionate contributions towards that strategic infrastructure.

3.3 The SPD provides a mechanism (a Framework Section 106 Agreement) to coordinate the funding and delivery of this strategic infrastructure from multiple sites through the planning process, as and when those sites come forward for development.

3.4 It is also relevant to acknowledge that further work is being undertaken by the Freeport to provide clarity on the scope of the strategic infrastructure and the apportionment of such contributions which will also help establish which sites outside of the Freeport should also contribute to such infrastructure. This will be set out in a Freeport specific Infrastructure Delivery Plan (IDP) (which is distinct from the Local Plan IDP currently being prepared). This will be finalised in due course to supplement and sit alongside the SPD. The SPD indicates that such Strategic Infrastructure is likely to cover the following:

- Major highway upgrades, especially the multi-package M1 Junction 24 Improvement Schemes
- Sustainable transport measures, including walking, cycling and public transport improvements
- Site-wide travel planning
- Green and blue infrastructure, including public access and landscape mitigation

3.5 Work is ongoing to prepare the IDP, informed by a number of relevant technical studies including further transport modelling. That IDP is not yet finalised and not having it available to accompany the consultation version of the SPD is not ideal because the SPD is reliant on it to inform future decision making. However, as set out above the Freeport consider that there is sufficient evidence to establish the principle

of the need for pooled contributions towards strategic infrastructure from multiple sites, despite the IDP not being ready to accompany the consultation version of the SPD. In due course the relevant Local Authorities may need to consider holding some form of consultation on the IDP when it is finalised to ensure stakeholders can input accordingly.

- 3.6 A further important factor is that the commencement regulations associated with the Levelling Up and Regeneration Act 2023 published in early March have confirmed that Supplementary Planning Documents (SPD's) must be adopted no later than 30 June. This is a further reason why the SPD needs to be progressed at pace at the current time. On balance, given the current evidence base and the need to have a formal mechanism in place before this deadline. On balance, despite the lack of an accompanying IDP officers consider it is appropriate that the SPD proceeds in its current draft form for consultation. The draft SPD is set out in full in Appendix A.
- 3.7 Once adopted by the three local planning authorities, the SPD would form a material planning consideration for the determination of any planning application(s) coming forward on the EMF sites, and/or on other allocated sites within those administrative areas which would also benefit from the infrastructure provided by the EMF sites or would have an impact on the infrastructure required by the EMF sites, in the future.

4.0 JOINT WORKING, CONSULTATION AND TIMESCALES

- 4.1 Production of the SPD has been coordinated by the Freeport and their appointed consultants. Officers have provided feedback to help shape the emerging draft SPD which has been considered in the production of the draft SPD set out in Appendix A.
- 4.2 The SPD is being reported to the Local Plan working groups of Rushcliffe Borough Council and South Derbyshire District Council on 16 March and 19 March respectively.
- 4.3 Given the cross-boundary nature of the SPD, it will require each authority to agree to proceed to consultation for consultation to take place. The aim will be for the SPD to be adopted by the respective LPAs within which the EMF sites are located and public consultation is being undertaken across all three authorities within the same time period.
- 4.4 The precise consultation dates have yet to be confirmed but consultation will run for a minimum of four weeks, which is in accordance with the Council's Statement of Community Involvement for Supplementary Planning Documents. Each authority will undertake their own consultation.
- 4.5 As referred to earlier, the 30 June deadline for adopting the SPD is an important factor as to why the SPD needs to be progressed at the current time and shapes the timetable for consultation and reporting, as set out in Table 1 below. The timescales are ambitious and there will be resource implications for officers for coordinating the consultation and reviewing representations, even though the Freeport will also be assisting with this process.

Table 1: SPD Programme

Date/Month	Stage
18 March 2026 – Local Plan Committee	Seek approval to undertake consultation
April 2026 (Dates TBC)	Consultation for minimum of four weeks
May 2026	Processing and assessing representations
23 June Cabinet	Reporting SPD for Adoption
25 June Local Plan Committee (date TBC)	Reporting SPD for Adoption

5.0 NEXT STEPS

- 5.1 The Committee is being asked to agree that the SPD be subject to consultation for a minimum of four weeks. Councillors will have the opportunity to make representations to the SPD consultation should they feel it necessary to do so.
- 5.2 Following the consultation, EMF and the Council will review the representations received. These will then be taken into account and if Officers are satisfied that the SPD should proceed towards adoption, the final draft SPD and the representations will be reported to Cabinet and Local Plan Committee for agreement of Members to adopt the SPD.

Policies and other considerations, as appropriate	
Council Priorities:	- Planning and regeneration
Policy Considerations:	Adopted North West Leicestershire Local Plan (2017) particularly policies EC1, EC4, IF4 and EC9. National Planning Policy Framework National Planning Policy Guidance
Safeguarding:	None discernible.
Equalities/Diversity:	None discernible.
Customer Impact:	No issues identified.
Economic and Social Impact:	The purpose of the SPD is to secure investment in new infrastructure, including upgrades to the highway network in North West Leicestershire, by means of developer contributions. These infrastructure improvements will help support economic growth and also benefit existing local residents.
Environment, Climate Change and zero carbon:	The SPD has been subject to Strategic Environmental Assessment and Habitats Assessment which confirms that the SPD will not have specific impacts, either positive or negative, on these factors.
Consultation/Community/Tenant Engagement:	The draft SPD will be subject to public consultation. The consultation arrangements will be governed by the Town and Country Planning (Local Planning) (England) Regulations 2012 and in turn by the Council's own Statement of Community Involvement (as amended).
Risks:	There is the potential for a legal challenge in the event that the SPD is found to go above and beyond existing policy requirements; however, this will be considered further through an assessment of the representations received.
Officer Contact	Tom James Interim Planning Policy Team Manager tom.james@nwleicestershire.gov.uk