

Document DCO 8.3A/MCO 8.3A

Overarching Statement of Common Ground between the Applicants and North West Leicestershire District Council

September 2026

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

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1 Introduction

- 1.1 This Overarching Statement of Common Ground ("SoCG") has been entered into by SEGRO Properties Limited and SEGRO (EMG) Limited ("the Applicants") and North West Leicestershire District Council ("NWLDC").
- 1.2 Discussions on various topic specific SoCGs have been ongoing between the parties for several months and pre-date the Rule 6 ("R6") letter produced by the Examining Panel ("ExP") which, in Annex F, detailed the subject matters the ExP wish to see addressed in the various SoCG.
- 1.3 Accordingly, the purpose of this Overarching SoCG is twofold:
- (a) To sign post where within the various SoCG the subject matter referred to by the ExP can be found; and
 - (b) To address any matters which the ExP refer to in Annex F that are not covered by the SoCG which have been under discussion.

2 Structure of this SoCG

- 2.1 Table 1 below sets out the signposting of the various items listed in Annex F of the R6 letter which the ExP wished to be included in the SoCG between the Applicants and NWLDC. Tables 2 and 3 then address the matters referred to in Annex F which are not covered in the other topic specific SoCG between the Applicants and NWLDC.

Table 1

Topic	Where addressed
Principle of development	NWLDC Policy SoCG
Economic and Social effects, including any implications for the local plan strategy	NWLDC Policy SoCG
Environmental impact assessment, including cumulative effects	See Table 2 row 3.1 below
Landscape and visual effects including lighting and visual effects of trees	NWLDC Landscape and Visual Effects SoCG
Any other potential effects, including on heritage assets, biodiversity, noise and vibration, air quality, emissions, contamination and emergency planning	NWLDC Built Heritage SoCG NWLDC Noise SoCG NWLDC Air Quality SoCG NWLDC Lighting SoCG Defer to LCC on biodiversity Defer to EA on contamination See Table 2 row 3.2 below for emergency planning
Good Design	NWLDC Policy SoCG

Various environmental management plans, both during construction and operation	See Table 2 row 3.3 below
The draft Development Consent Order (“dDCO”) and draft Material Change Order (“dMCO,”), including requirements and discharge mechanisms	See Table 2 row 3.4 below and Table 3 row 4.1
Planning permissions granted for the EMG1	See Table 2 row 3.5 below

2.2 Within the following tables a Red Amber Green (RAG) status has been applied as follows:

- (a) **green** indicates a matter agreed,;
- (b) **amber** indicates a matter that is under discussion and/or further work is being completed; and
- (c) **red** indicates a matter not agreed.

3 Matters not dealt with in other topic specific SoCGs between the Applicants and NWLDC

Table 2 – DCO Matters not covered in other SoCGs

Reference Number	Matter	Application Document	Applicants' Position	Interested Party's Position	Status	Date
Matters not dealt with in other SoCGs						
3.1	Environmental impact assessment, including cumulative effects	ES – All Chapters	The ES has assessed the development applied for using appropriate methodology (apart from any issues relating to methodology referred to in the topic specific SoCGs between the Applicants and NWLDC) and it includes an appropriate assessment of cumulative effects. The topic specific SoCGs between the Applicants and NWLDC identify any disagreements between the Applicants and NWLDC in respect of the outcome of the ES assessment. The Applicant does not agree with the ExP's reasoning in the R17 letter regarding a requirement for the assessment of delivery and non delivery in relation to the Joint Application for the reasons set out in Appendix 1 to the Applicant's Post Hearing Submission submitted at Deadline 4 (Doc 7.14).	The ES has assessed the development applied for using appropriate methodology (apart from any issues relating to methodology referred to in the topic specific SoCGs between the Applicants and NWLDC) and it includes an appropriate assessment of cumulative effects. The topic specific SoCGs between the Applicants and NWLDC identify any disagreements between the Applicants and NWLDC in respect of the outcome of the ES assessment. NWLDC notes the revised Chapter 4 and associated appendices which respond to the ExP's request for the assessment of delivery and non delivery in relation to the Joint Application. NWLDC has no further comments on the matter.	Agreed	01/09/2026

3.2	Emergency Planning	ES Chapter 20 (Reference REP3-024)	The scoping opinion adopted by PINS (Examination Library Document APP-070) included the topic of “<i>Vulnerability to Major Accidents and Disasters</i>.” This has been assessed in Chapter 20 of the ES (PINS Examination Library Document APP-197). There is no disagreement regarding the assessments carried out in Chapter 20 which conclude that the risk of major accidents and disasters are as low as reasonably practicable (“ALARP”). The overall conclusion in respect of the DCO and MCO is that in combination or in isolation they would not give rise to any significant residual effects and are therefore not vulnerable to Major Accidents or Disasters (“MAD”) nor would they exacerbate the vulnerability of surrounding hazard sites. In respect of emergency planning and to discharge its duties under the Civil Contingencies Act 2004 , NWLDC work with Blaby District Council, Charnwood Borough Council, Harborough District Council, Hinckley and Bosworth Borough Council, Leicester City Council, Leicestershire County Council, Melton Borough Council, Oadby & Wigston Borough Council and Rutland County Council as part of the Leicester, Leicestershire and Rutland Resilience Partnership. They also work with the emergency	The scoping opinion adopted by PINS (Examination Library Document APP-070) included the topic of “<i>Vulnerability to Major Accidents and Disasters</i>.” This has been assessed in Chapter 20 of the ES (PINS Examination Library Document APP-197). There is no disagreement regarding the assessments carried out in Chapter 20 which conclude that the risk of major accidents and disasters are as low as reasonably practicable (“ALARP”). The overall conclusion in respect of the DCO and MCO is that in combination or in isolation they would not give rise to any significant residual effects and are therefore not vulnerable to Major Accidents or Disasters (“MAD”) nor would they exacerbate the vulnerability of surrounding hazard sites. In respect of emergency planning and to discharge its duties under the Civil Contingencies Act 2004 , NWLDC work with Blaby District Council, Charnwood Borough Council, Harborough District Council, Hinckley and Bosworth Borough Council, Leicester City Council, Leicestershire County Council, Melton Borough Council, Oadby & Wigston Borough Council and Rutland County	Agreed	07/04/2026
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			services. There is no reason to believe that the proposed development will adversely impact upon that emergency planning provision or that it will give rise to a burden upon it.	Council as part of the Leicester, Leicestershire and Rutland Resilience Partnership. They also work with the emergency services. There is no reason to believe that the proposed development will adversely impact upon that emergency planning provision or that it will give rise to a burden upon it.		
3.3	Various environmental management plans, both during construction and operation	ES Appendix 6.3A CEMP (Reference REP6-020D) ES Appendix 6.9J LEMP (Reference REP6-031)	The topic specific SoCGs between the Applicants and NWLDC identify any disagreements between NWLDC and the Applicants in respect of the environmental management plans, both during construction and operation. The Applicants understand that save to the extent otherwise identified in those SoCGs, NWLDC is otherwise content with the management plans proposed by the Applicants.	NWLDC considers the contents of ES Appendix 9J associated with the LEMP submitted into the Examination at Deadline 6 [REP6-031] to be acceptable. NWLDC considers the contents of the updated CEMP to be acceptable.	Agreed	01/09/2026
3.4	The DCO and MCO including requirements and discharge mechanisms	draft DCO (reference REP6-007D)	NWLDC set out the comments it has on the requirements in the dDCO and dMCO in its Relevant Representation, the LIR, responses to the First and Third Written Questions of the ExP, and a response to Action Point 66 of Issue Specific Hearing ("ISH") 3. The Applicants have since sought to address these at Deadline 6 within an amended dDCO and dMCO..	At Deadline 6, the Applicants submitted into the Examination a revised dDCO [REP6-007D] and a revised dMCO [REP6-013M] . These have sought to address comments made by NWLDC on the requirements within both the dDCO and dMCO as part of its Relevant Representation, LIR, responses to the First and Third Written Questions of the ExP and response to Action Point 66 from ISH3.	Agreed	01/09/2026

				Additionally, the revised dDCO and dMCO have responded to the recommendations made by the ExP on the drafting of the dDCO and dMCO [PD-027]. The revised dDCO has removed requirement 27 (associated with mezzanines) which is welcomed by NWLDC given its concern over the enforceability of this requirement. In addition, the revised dDCO includes two new requirements (nos. 31 and 32) associated with Advanced Manufacturing (no. 31) and the Marketing of the Advanced Manufacturing Floorspace (no. 32). NWLDC welcomes the inclusion of these two requirements, which respond to concerns previously raised. The ExP's proposed wording for criterion (4) of Requirement 32 includes the following wording at the end of the Requirement: <i>“or any other end date prescribed under powers provided in section 113 of the Finance Act 2021, whichever is the later.”</i> NWLDC's preference is that the additional wording proposed by the ExP is incorporated within criterion (4) of Requirement 32 to ensure that advanced		
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				manufacturing is pursued for the same period of time in which the Freeport incentive would apply.		
3.5	Planning permissions granted for the EMG1 Site	Appendix 1 to this SoCG	NWLDC has granted 16 no. planning permissions for development on the EMG1 site the details and status of which are set out in the Table provided as Appendix 1. It is agreed that the planning permissions granted on the EMG1 site under the Town and Country Planning Act ("TPCA") regimes are limited to changes in height for stacked containers, lighting columns, the rail terminal building and two warehouses on plots 2 and 12. It is agreed that the effect of Article 5(2) of the EMG1 DCO ensures that the planning permissions granted on the EMG1 site do not constitute a breach of the EMG1 DCO which would otherwise potentially cause conflict and/or trigger the possibility of enforcement action. The parties note the following paragraphs of the judgement of the Supreme Court in <i>Hillside Parks Ltd v Snowdonia National Park Authority</i> [2022] 1 WLR 5077: <i>"68. In summary, failure or inability to complete a project for which planning permission has been granted does not make development carried out pursuant to the permission unlawful.</i>	NWLDC has granted 16 no. planning permissions for development on the EMG1 site the details and status of which are set out in the Table provided as Appendix 1. It is agreed that the planning permissions granted on the EMG1 site under the Town and Country Planning Act ("TPCA") regimes are limited to changes in height for stacked containers, lighting columns, the rail terminal building and two warehouses on plots 2 and 12. It is agreed that the effect of Article 5(2) of the EMG1 DCO ensures that the planning permissions granted on the EMG1 site do not constitute a breach of the EMG1 DCO which would otherwise potentially cause conflict and/or trigger the possibility of enforcement action. The parties note the following paragraphs of the judgement of the Supreme Court in <i>Hillside Parks Ltd v Snowdonia National Park Authority</i> [2022] 1 WLR 5077: <i>"68. In summary, failure or inability to complete a project for which</i>	Agreed	16/06/2026

			<i>But (in the absence of clear express provision making it severable) a planning permission is not to be construed as authorising further development if at any stage compliance with the permission becomes physically impossible”.</i> <i>Departures must be material</i> <i>69. The Pilkington principle should not be pressed too far. Rightly in our view, the Authority has not argued on this appeal that the continuing authority of a planning permission is dependent on exact compliance with the permission such that any departure from the permitted scheme, however minor, has the result that no further development is authorised unless and until exact compliance is achieved or the permission is varied. That would be an unduly rigid and unrealistic approach to adopt and, for that reason, would generally be an unreasonable construction to put on the document recording the grant of planning permission – all the more so where the permission is for a large multi-unit development. The ordinary presumption must be that a departure will have this effect only if it is material in the context of the scheme as a whole: see Lever Finance Ltd v Westminster (City) London Borough Council [1971] 1 qb 222, 230. What is</i>	<i>planning permission has been granted does not make development carried out pursuant to the permission unlawful. But (in the absence of clear express provision making it severable) a planning permission is not to be construed as authorising further development if at any stage compliance with the permission becomes physically impossible”.</i> <i>Departures must be material</i> <i>69. The Pilkington principle should not be pressed too far. Rightly in our view, the Authority has not argued on this appeal that the continuing authority of a planning permission is dependent on exact compliance with the permission such that any departure from the permitted scheme, however minor, has the result that no further development is authorised unless and until exact compliance is achieved or the permission is varied. That would be an unduly rigid and unrealistic approach to adopt and, for that reason, would generally be an unreasonable construction to put on the document recording the grant of planning permission – all the more so where the permission is for a large multi-unit development. The ordinary presumption must be that a departure will have this effect</i>	
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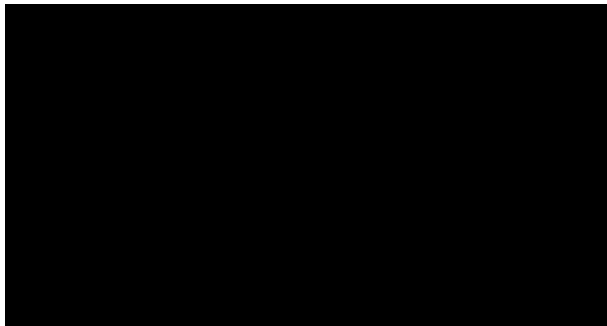
			<i>or is not material is plainly a matter of fact and degree.”</i> It is agreed that the changes approved in the TCPA planning permissions do not conflict with or represent a material departure from the development approved by the EMG1 DCO, nor did they give rise to a situation in which it became physically impossible to complete the development permitted by the EMG1 DCO. It is agreed that the EMG1 MCO would be capable of implementation notwithstanding the changes approved in the TCPA planning permissions.	<i>only if it is material in the context of the scheme as a whole: see Lever Finance Ltd v Westminster (City) London Borough Council [1971] 1 qb 222, 230. What is or is not material is plainly a matter of fact and degree.”</i> It is agreed that the changes approved in the TCPA planning permissions do not conflict with or represent a material departure from the development approved by the EMG1 DCO, nor did they give rise to a situation in which it became physically impossible to complete the development permitted by the EMG1 DCO. It is agreed that the EMG1 MCO would be capable of implementation notwithstanding the changes approved in the TCPA planning permissions.	
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4 **Table 3 – MCO Matters not covered in other SoCGs**

Reference Number	Matter	Application Document	Applicants' Position	Interested Party's Position	Status	Date
4.1	MCO specific issues	n/a	There are no issues between the applicants and NWLDC which relate to the MCO which are not covered in other topic specific SoCGs.	There are no issues between the applicants and NWLDC which relate to the MCO which are not covered in other topic specific SoCGs.	Agreed	

SIGNATURES:

On behalf of the Applicants:

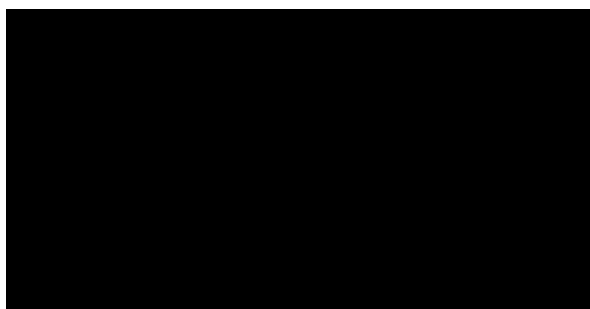


.....
Signature

David Green
.....
Name

Managing Director (Delta Planning)
.....
Position

On behalf of North West Leicestershire District Council:



.....
Name

Head of Planning and Infrastructure
.....
Position

Appendix 1 – Planning history of EMG1 Site

<u>Planning Permission Reference</u>	<u>Development Consented</u>	<u>Location</u>	<u>Implemented / Not Implemented</u>	<u>Applicant's Comments</u>	<u>NWLDC Comments</u>
17/01165/FULM	Construction of B8 warehouse together with ancillary buildings with associated access, parking, service and yard areas and landscaping. Approved 6 th November 2017.	Unit 2, Zone A2, East Midlands Gateway	Implemented APPLICANT INSERT DATE OF IMPLEMENTATION		
18/01527/FULM	Container storage area with containers stored up to 15 metres high (5 containers) together with rail terminal lighting columns at 25 metres high. Approved 16 th October 2018.	Zone C (Rail Terminal), East Midlands Gateway	Implemented		
18/02146/NMA	Non-material amendment to planning permission 17/01165/FULM to make minor alterations to elevations and external buildings as well as landscaping. Approved 14 th December 2018.	Unit 2, Zone A2, East Midlands Gateway	Implemented		
19/00779/FULM	Erection of Rail Terminal Building (Use Class B1) with associated access, parking, service and yard areas and landscaping, within Zone C of the East Midlands Gateway development. Approved 19 th August 2019.	Zone C (Rail Terminal), East Midlands Gateway	Not Implemented (replaced by 23/00128/VCUM)		

<u>Planning Permission Reference</u>	<u>Development Consented</u>	<u>Location</u>	<u>Implemented / Not Implemented</u>	<u>Applicant's Comments</u>	<u>NWLDC Comments</u>
19/01404/FULM	<i>Erection of natural gas refuelling station together with ancillary buildings within associated access, service and yard areas and landscaping within Zone B of the East Midlands Gateway development.</i> <i>Approved 18th October 2019.</i>	Zone B (Intermodal Area), East Midlands Gateway	Not Implemented		
19/01456/HSC	<i>Hazardous substances consent application for natural gas refuelling station at East Midlands Gateway development.</i> <i>Approved 24th February 2020.</i>	Zone B, East Midlands Gateway	Not Implemented		
20/00718/FULM	<i>Construction of B8 warehouse together with ancillary buildings and associated access, parking, service and yard areas and landscaping.</i> <i>Approved 10th August 2020.</i>	Plot 12, East Midlands Gateway	Implemented		
21/01393/FUL	<i>Erection of statue.</i> <i>Approved 14th April 2023.</i>	Games Workshop, East Midlands Gateway	Implemented		
21/01472/NMA	<i>Non-material amendment to planning permission 20/00718/FULM to make minor</i>	Plot 12, East	Implemented		

<u>Planning Permission Reference</u>	<u>Development Consented</u>	<u>Location</u>	<u>Implemented / Not Implemented</u>	<u>Applicant's Comments</u>	<u>NWLDC Comments</u>
	<i>amendments to the elevations, external areas and lighting scheme.</i> <i>Approved 26th August 2021.</i>	Midlands Gateway			
<u>22/00771/FUL</u>	<i>Additional service yard area for vehicle movements and HGV parking.</i> <i>Approved 8th July 2022.</i>	Land Adjacent Zone C (Rail Terminal), East Midlands Gateway	Implemented		
<u>22/00867/FULM</u>	<i>Container storage area with containers stored at up to 15 metres high (5 containers) together with rail terminal lighting columns at up to 25 metres high.</i> <i>Approved 5th August 2022.</i>	Zone C (Rail Terminal), East Midlands Gateway	Implemented		
<u>23/00090/FULM</u>	<i>Intermodal area (Zone B) with containers stored at up to 15 metres high (5 containers) together with intermodal area lighting columns at 25 metres high.</i> <i>Approved 24th April 2023.</i>	Zone B (Intermodal Area), East Midlands Gateway	Implemented		

<u>Planning Permission Reference</u>	<u>Development Consented</u>	<u>Location</u>	<u>Implemented / Not Implemented</u>	<u>Applicant's Comments</u>	<u>NWLDC Comments</u>
23/00128/VCUM	Removal of condition 3 and variation of conditions 2, 8, 9, 11, 12, 13, 14, 17, 18, 22 and 23 of 19/00779/FULM so as to amend the design, scale and layout of the rail terminal building as well as approving hard and soft landscaping and cycle parking details. Approved 26 th May 2023.	Zone C (Rail Terminal), East Midlands Gateway	Implemented		
23/00552/NMA	Non-material amendment to planning permission 20/00718/FULM so as to introduce Euro Docks to the eastern elevation. Approved 18 th May 2023.	Plot 12, East Midlands Gateway	Implemented		
23/00787/FUL	To install a single storey Portakabin building to be used as a rest area for a temporary period of three years. Approved 11 th August 2023.	Plot 12, East Midlands Gateway	Implemented		
24/00099/FUL	Creation of a maintenance compound including welfare cabins, storage containers, recycling bays, yard area, landscaping and lighting columns consisting of 6 no. 10 m high columns and 1 no 6m high column. Approved 11 th April 2024.	Land Adjacent Zone C (Rail Terminal), East	Implemented		