

FAO Examining Panel National Infrastructure
Planning Inspectorate
c/o QUADIENT
69 Buckingham Avenue
Slough
SL1 4PN

7th September 2026

Sent via email only to: emgateway2@planninginspectorate.gov.uk

Dear Sirs,

Re: East Midlands Gateway Phase 2 – Examination - Deadline 8 Submission - Protect Diseworth

We write in relation to the above and set out below the D8 submissions on behalf of Protect Diseworth (PD). For the avoidance of doubt, whilst this representation is presented on the Seb Planning letterhead, we have been providing professional assistance throughout the examination period and as such, this correspondence is submitted for and on behalf of PD.

Summary

The Deadline 6 submissions as previously made on behalf of PD set out the outstanding matters and areas of concern. Whilst this submission does not seek to repeat the PD D6 submissions, we refer to a number of outstanding matters that have evidently not been addressed by the Applicant. This is a significant concern to PD with the closure point of the examination imminent and we remain of the view that the ExP is unable to make an informed and comprehensive recommendation to the Secretary of State (SoS) on this basis.

PD note that the substantive submissions made at D6, comprised of various final versions of SOCGs with the relevant LPAs and other parties. Our comments are made below.

Statements of Common Ground (SOCG's)

SOCG Between Applicant and NWLDC (Relating to Planning Policy)

Firstly, we note that the Applicant/NWLDC have not complied with the requirements of the ExP as D7 was to feature final SOCG's, whilst this document is clearly in draft form and not signed. As a draft document, it should be treated with caution, but PD are also concerned that if the parties intend to update and finalise the SOCG, this inhibits the ability of PD and any other third party to comment on the final version, given there are no further deadlines, with the examination due to close on the 10.9.26. This concern is further evidenced by the number of remaining 'under discussion' items within the SOCG. For ease of reference, we present a table below that references specific Paragraphs within the SOCG and where PD have comments to make.

Paragraph No.	Issue	PD Response
4.4	Emerging NWLDC Local Plan	PD consider the draft allocation should be afforded limited weight by the ExP at this

		stage, given the current stage of the process (Regulation 19) and that the proposals have not been robustly tested through an Examination in Public (EIP) which will not have been concluded by the time a decision is due on the DCO. In particular, PD challenge NWLDC's re-inclusion of the whole of the EMP 90 site when it had previously accounted for a 20HA buffer. Moreover, in public documents, NWLDC accepted that ideally, such re-inclusion should have been subject to re-consultation, justifying its conduct in not doing so on resource and time issues.
4.5	Masterplanning and Comprehensive Development.	Once again PD would point to the fact that reliance is been placed upon wording within a draft allocation policy, that has not been subject to an EIP. We note that NWLDC identify that <i>'the draft policy requirement for a masterplan can be met in full'</i> which does not commit to whether the masterplan information within the DCO submission is appropriate. Notwithstanding PD's views on the merits of the draft policy, it requires details on phasing and the SOCG refers to vague wording stating that <i>'It is It is understood by NWLDC that EMG2 will essentially be delivered in one phase and then units will be built out as and when occupiers are secured.'</i> Effective masterplanning should comprise clear identification of parameters, constraints and mitigation proposals and PD contend that this has not been sufficiently developed during the DCO stage, so as to provide clarity on the limits of development and how construction effects will be adequately controlled. In addition, given the alleged strategic need behind the proposed development, PD are surprised that the anticipated phasing remains uncertain and gives an indication of the possible speculative nature of the development.
4.6	Freeport Designation	As accepted in the SOCG, the Freeport designation is not a planning designation. It seeks to offer economic and tax incentivisation and has no bearing on the impacts and resulting effects of development in planning terms. Notwithstanding this, PD note that the

		Freeport Designation has apparently, but wrongly, elevated the development into a planning process and the two matters are as a result, inextricably linked.
4.8	Emerging Long Whatton and Diseworth Neighbourhood Plan.	Reference is made to the fact that both NWLDC and the Applicant unsuccessfully objected to the Regulation 16 version of the NP in respect of policy LW+DW30, but PD note that the Independent Examiner in their report(https://www.longwhattondiseworth-pc.gov.uk/uploads/long-whatton-and-diseworth-np-examiner-report-20052026.pdf?v=1780050948) disagreed and considered the NP met the necessary legal tests. Indeed, the plan goes to referendum on 10 September and is therefore close to adoption, subject to final ratification by the LPA. . Reference is made to a modification made in the policy ‘unless satisfactory mitigation can be demonstrated’ and then the SOCG goes on to state: ‘<i>The Examiner’s Report recognises that the mitigation strategy to minimise residual landscape and visual impacts within the DCO proposals has been considered in detail and that the amended caveat would provide a workable solution to the concerns of the Parish Council.</i>’ PD notes this comment, but this simply provides the mechanism by which impacts can be considered, with a requirement to demonstrate ‘satisfactory mitigation.’ It does not endorse a development proposal subject to a specific and separate consenting process. In PD’s view, there has been very limited consideration of the landscape and visual impacts of the proposed development throughout the examination period. The Applicant’s LVIA confirms that there will be significant adverse effects as a result of the proposed development and PD considers there is no mitigation presented that can adequately reduce this to acceptable levels.
4.11	Approach to Design	PD are in general disagreement with the Applicant’s and NWLDC’s position on design. PD considers that little or no evidence has been provided throughout the examination on how the design evolution process has

		responded to the presence of a historic (with conservation area status) village that lies in close proximity to the order limits area. PD have been further frustrated by the focus on the approach to highways design, which has less immediate impact (in terms of the structures themselves) on sensitive receptors i.e.. the residents of Diseworth and is by its nature is largely functional in terms of the design approach.
4.12	Landscaping along A453 frontage	PD consider it 'stark' that the SOCG makes no reference to landscaping mitigation on the immediate boundary with Diseworth Village and would therefore assume as a separate issue, this is 'not agreed.'
4.14	Compliance with Local Plan Policy Ec2(2)	PD acknowledge that this matter is 'not agreed' and having reviewed the position of NWLDC, would offer the following comments. PD note that NWLDC find there to be a direct conflict with Policy EC(2) in that it has not been demonstrated that there is an <u>'immediate need'</u>. As such, it is noteworthy that the responsible LPA are directly questioning the principle of development, in respect of 'need.' Whilst NWLDC go on to consider how the proposals comply with other components of the policy; this is considered by PD to be irrelevant as the policy first and foremost requires a demonstration of need which has not been proven. PD agrees with this assertion. The following paragraphs within this section are contradictory in nature, given they are presented under 'not agreed.' NWLDC go on to state that they consider that it has been demonstrated that residential amenity can be satisfactorily mitigated. PD strongly disagree with this position, based on submissions throughout the examination. NWLDC then go on to state that: <i>'Given the landscape and built heritage impacts, NWLDC officers consider that it cannot be concluded that the proposed development would not be detrimental to the environment and therefore would be in conflict with criterion (c) of Policy Ec2(2) of the adopted Local Plan.'</i> PD consider that the residential amenity

		impacts are inextricably linked with landscape and other environmental impacts and therefore find NWLDC's position contradictory in this regard. Notwithstanding this, PD agree that it cannot be ruled out that the proposed development would not result in detrimental effects to the environment and would go further to say these would very likely occur during the construction and operational phases of the development. This presents a further example of the Applicant having not provided sufficient evidence that the effects of the proposed development can be satisfactorily mitigated.
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SOCG Between Applicant and Leicestershire County Council (LCC) – Relating to Population and Human Health

Whilst PD have not made specific comments on this topic area previously, we note with concern (that as with other issues identified within this correspondence) that there are a number of outstanding matters in relation to the DCO, with 13 out of 14 topic areas not agreed between LCC and the Applicant. These areas of disagreement relate to the study area, vulnerable groups, cumulative effects, and mitigation. Most noteworthy is Paragraph 4.13 (Significant Adverse Effects) where LCC state that *'LCC considers this matter remains disagreed. As outlined above, the significant impacts on Population and Human Health remain unknown.'*

PD note with significant concern that the impacts upon the local population (of which Diseworth is downhill and immediately the most 'local' are still, remarkably, unknown at this final stage of the examination process.

SOCG Between Applicant and Leicestershire County Council (LCC) – Relating to Highways and Transport

PD note, (as with the SOCG referred to above) that there are a number of fundamental outstanding matters relating to highways and transport. The first area of disagreement relates to Paragraph 4.6b (Stage 1 Modelling Analysis). PD acknowledge that LCC have previously and continue to focus upon the villages of Castle Donnington and Kegworth, but Diseworth is equally if not more so likely to experience significant traffic impacts. PD argues that this omission is irrational. As such, PD also consider that, as an absolute minimum, (in the event of permission being forthcoming) a further requirement within the DCO to 'Monitor and Manage, traffic movements should also apply to Diseworth. This point would also equally apply to the same proposal put forward by LCC at Paragraph 4.7e (Detailed Junction and Modelling Analysis) and other areas that are 'not agreed' within the SOCG, where the same mitigation is recommended i.e.. the production of a Monitor and Management Strategy to be secured by a further requirement within the DCO.

Draft Development Consent Order

PD have reviewed the latest version of the Draft DCO and note with significant concern that Article 37 (Defence to Proceedings in relation to Statutory Nuisance) remains in place. In our D6 submission, we repeated significant concerns that the Applicant is seeking powers within the DCO that have not been justified, in relation to the removal of the normal controls around 'statutory nuisance.' PD consider that such removal of the normal controls is unnecessary and removes an essential protection to local amenity. This is compounded by the fact that the Applicant's position is that noise will be subject to suitable controls so as not to injure local amenity. PD are dismayed that this issue has not been subject to further scrutiny and the Applicant has not been asked to respond or has offered to directly respond to this issue. In our experience, at the very least, such an Article should be subject to debate and questioning during an examination and PD are dismayed that this has not occurred for such a fundamental issue, exposing the residents of Diseworth to potential significant adverse effects resulting from noise during the construction period and with no means by which any such complaints could be addressed under statute. In short, as the Applicant asserts its activities will not significantly affect Diseworth, it is illogical for it to require a provision protecting it against events it argues will not arise. More fundamentally, removal of such basic protection could potentially amount to an infringement of the villagers' human rights.

Applicant's Response to Deadline 6 and 6a Submissions

PD notes that in **Appendix 6** of the Applicant's response to Deadline 6/6a submissions, they seek to respond to PD's D6 responses. We include a table below which contains PD's further comments relative to the Applicants responses.

Paragraph Number	Topic	Further PD comments
1	Site Selection and alternatives	The Applicant makes additional reference to the current Regulation 19 Consultation of the LP. As noted by the Applicant, alternatives in respect of the local plan process is a separate requirement and does not forgo the statutory obligation of an Applicant to consider 'reasonable alternatives' in line with the EIA Regulations and in accordance with National Planning Policy.
2	Highways considerations	The Applicant makes no meaningful effort to respond to the specific points of PD, in particular the independent Highways Report commissioned by PD and submitted at D6. Instead, the Applicant refer to their previous deadline submissions. PD are significantly disappointed by the Applicant's lack of response in addressing issues of highway safety associated with the village of Diseworth.
3	Amenity considerations	Once again, the Applicant does not specifically address the comments of PD in respect of amenity impacts within the context of local plan policy. We would refer to our comments above in respect of the relevant SOCG between the Applicant and NWLDC.
4	Noise	It remains evident that the Applicant has not had discussion with NWLDC on construction working hours and sought agreement. PD are very surprised

		by this omission which is considered an early key point for discussion with an LPA. The Applicant states that <i>'All noise, dust and vibration management on the Applicants' other sites has been carried out as per each P-CEMP, prepared in consultation with the relevant environmental health officer and approved by the Local Planning Authority. No enforcement action has been brought against the Applicants in respect of these matters.'</i> Referring to other sites without qualification and the lack of enforcement action, provides no reassurance or confidence, as such matters have not been discussed and agreed with the LPA on this site. Moreover, the statement is highly disingenuous. PD have written evidence from neighbours of one such site (Milton Malsor in Northamptonshire) of significant nuisance caused by the Applicant and that, on a site where the settlement is significantly both further away from the development and in a much better topographical position. Additionally, there have been press items about the identical situation arising at the Applicant's St Alban's site. However, PD received professional advice that that "comparable" evidence was inappropriate so if the ExP is nevertheless to place any reliance on such an assertion by the Applicant, then PD should be permitted, even at this stage to adduce that evidence. In short, the proposed development is a significant construction operation and the appropriateness of the working hours are a fundamental parameter for safeguarding the amenities of the residents of Diseworth.
5.	Landscape and Visual	The Applicant's response largely relates to the methodology of the assessment and photomontage work having been agreed with NWLDC, without addressing and responding to the significant adverse effects the proposed development will cause from an LVIA perspective and that there are no means by which this can be adequately mitigated.

Rule 17 Letter dated 7.9.26

As part of these PD final submissions, we note that the ExP highlight the failing of the Applicant to respond to PD's previous submissions in their request for information letter. This also reflects the PD analysis as contained in this correspondence. Once again, this is another example of prejudice that has been caused, with PD at a distinct disadvantage, based on the Applicant's failure to respond, and there being no further opportunity to comment as this information is re-requested for the final

deadline and shortly before the examination closes.

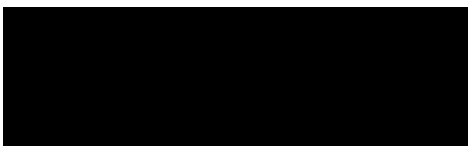
Conclusion

With the end of the examination imminent, notwithstanding the ExP's letter of 4 September, PD are left in a position of feeling that their representations throughout the examination have not been given due and proper consideration. It considers that the examination has been dominated by technical clarifications and the administration of the process, and the proper rigour of key concerns of PD relating to the impacts of this significant development have not occurred.

Moreover, PD note that there are a fundamental number of issues raised by PD and other IP's, whereby the Applicant has been unable to or has refused to address. This includes the 'unprecedented' refusal of the Applicant (following repeated direct requests from the ExP) to 'disaggregate' environmental effects within the ES, leading to a lack of clarity and understanding around the impacts, resulting effects and the suitable mitigation that is necessary.

The examination has also played out a highly irregular scenario whereby the Applicant is competing with another landowner/developer to see who is 'first past the post' in securing permission for their respective scheme. In addition to questioning the adequacy of the assessment and resolution of outstanding matters, PD consider there is genuine question around the deliverability of the DCO scheme, which has been elevated to the DCO consenting process as a result of a flawed implementation of the government policy that designated the land as a 'Freeport tax site,' a process which to this day, despite strenuous attempts to establish exactly what occurred, remains opaque and shrouded in secrecy.

PD consider that with the significant uncertainty identified, the ExP is not in a position to make an informed recommendation to the SoS and as such, we would urge a recommendation of refusal, in light of the issues raised within this correspondence.



Simon Betts
Director



On behalf of Protect Diseworth

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