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To: [West Midlands Interchange](#)
Subject: West Midlands interchange amendment.
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The critical provision: Requirement 35

The West Midlands Rail Freight Interchange Order 2020 is SI 2020/511, made by the Secretary of State under the Planning Act 2008.

Schedule 2 contains the requirements governing the development. Requirements 32–40 specifically deal with provision of the railway.

Most importantly, Requirement 35 says that the developer must complete the rail terminal works before the earlier of:

occupation of more than 186,000 m² of warehousing; or

the sixth anniversary of the first occupation of more than 47,000 m² of warehousing.

That 186,000 m² is not accidental. It represents approximately 25% of the total 743,200 m² warehousing authorised by the DCO. Other DCO proceedings have expressly described WMI as allowing 25% occupation before the rail terminal becomes operational.

And the explanatory material submitted during the WMI examination expressly said that the mechanism:

“ensures the delivery of the terminal”

by preventing occupation of more than 186,000 m² before completion of the terminal.

That is important evidence of why Requirement 35 exists.

The existence of the DCO doesn't automatically remove the Town and Country Planning Act regime for every conceivable development in the area.

Indeed, the developer has already used South Staffordshire for detailed approvals associated with WMI.

But:

Can ordinary planning permission legitimately be used to circumvent Requirement 35 by constructing/occupying additional logistics floorspace which is functionally part of WMI but saying that it isn't DCO warehousing?

That is a much more difficult proposition.

If that is what is being attempted?

The Secretary of State expressly authorised a rail freight interchange, not simply an enormous motorway-connected logistics park. And the Secretary of State imposed a statutory restriction specifically designed to prevent most of the warehouses being occupied without the railway being delivered.

Allowing essentially the same developer to obtain separate TCPA permissions which enable the logistics development to expand beyond that threshold while the rail terminal remains undelivered could arguably frustrate the purpose of Requirement 35.

The project obtained national consent because it was a Strategic Rail Freight Interchange.

The DCO authorises approximately 743,200 m² of warehousing together with the strategic rail freight terminal.

The developer's own current website still markets WMI as a "DCO approved development site" with up to 8 million sq ft of logistics warehousing including a strategic rail freight interchange.

So if the proposition is now effectively:

"We want more road-served logistics development before delivering the railway"

there is a strong argument that this fundamentally undermines the planning basis on which this nationally significant development was authorised.

The Secretary of State has already considered precisely this issue and decided how much development could proceed before rail provision.

The answer was:

186,000 m².

And not 1.5 million m²

The DCO definition of the authorised warehousing includes:

rail-served warehousing including ancillary offices and other buildings.

So there is already provision for offices ancillary to the logistics operation.

Why isn't it ancillary office accommodation within the DCO development?

If it isn't ancillary, then it is a new land use which was not part of the NSIP authorised by the Secretary of State.

That means SSDC should assess it as a genuinely new development against the development plan — including transport impacts, location, sustainability, need, Green Belt, cumulative impacts etc. They shouldn't simply treat it as an innocuous modification to WMI.

And if it is ancillary to WMI, the obvious question becomes:

Why is it being sought through a separate TCPA permission rather than through the DCO?

Statutory integrity of the DCO. Requirement 35 is an express statutory control imposed by the Secretary of State to ensure delivery of the rail terminal.

SSDC must satisfy itself that granting a separate planning permission would not have the practical effect of circumventing or frustrating Requirement 35.

The development was consented nationally as an SRFI, not simply a motorway-based distribution park.

Any additional warehouse/office development should be assessed cumulatively with the entire WMI development, rather than treated as an isolated planning application.

There is a serious question about whether the environmental effects can properly be assessed separately from WMI if the proposed development is functionally and physically integrated with it.

Offices are proposed offices ancillary to WMI warehousing. If they are, why do they fall outside the DCO; if they aren't, assess them as additional development not contemplated by the DCO.

If the developer wishes to alter the relationship between warehousing and rail provision established by Requirement 35, the obvious route is an application to change the DCO under Schedule 6 of the Planning Act, exposing the proposal to the appropriate statutory scrutiny — not simply attempting to achieve substantially the same result through local planning permissions.

Interestingly, WMI itself has already used the formal DCO amendment procedure.

The West Midlands Rail Freight Interchange (Amendment No. 2) Order 2025 changed the DCO through a Schedule 6 Planning Act application.

And during an earlier proposed non-material change the developer specifically said its proposed amendment:

did not affect the principles of development such as the quantum of rail-served warehousing or specification of the Rail Terminal.

This demonstrates that the developer itself recognises a distinction between minor/detail changes and changes affecting the fundamental principles of the consent, including the amount of rail-served warehousing and the rail terminal.

Is the applicant attempting to use the TCPA planning system to obtain development which undermines a constraint deliberately imposed by the Secretary of State in a nationally significant infrastructure DCO?

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Sent from my iPhone