

From: Alcock, Mark [REDACTED]
Sent: Tuesday, September 22, 2026 09:07
To: planning <planning@sstaffs.gov.uk>
Subject: Re: Planning Objection to Application Reference - 26/00671/WMI

Good Morning,

Thank you for your email.

Please see my objection.

Re: West Midlands Rail Freight Interchange Order 2020 (as amended)
Application: Proposed Non-Material Change Application
Subject: Formal Objection to Proposed Amendments to Requirement 35(b), Requirement 34, Requirement 25 and Article 44(3)

Dear Sir/Madam,

I am writing to submit a formal objection to the proposed non-material change application in respect of the West Midlands Rail Freight Interchange Order 2020, as amended.

I object to the proposed amendments to Requirement 35(b) and Requirement 34, and also to the wider package of amendments including those to Requirement 25, the revised phasing assumptions, and the proposed amendment to Article 44(3).

In my professional opinion, the proposed changes are material in planning terms and should not be considered through the non-material change procedure.

1. Procedural Context

I note that the Secretary of State has issued written consent under Regulation 7(3) of the *Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011* (as amended) in relation to the proposed consultation approach.

However, as the Secretary of State's correspondence makes clear, that consent is procedural in nature only. It does not indicate any view as to the planning merits of the proposed amendments, nor does it predetermine whether they should properly be regarded as material or non-material changes. The application must therefore be assessed by reference to its substantive planning effects.

It is also relevant that consultation with the Environment Agency has been required. Whilst that is not determinative of the issue, it indicates that the proposed amendments are capable of giving rise to consequences extending beyond the scope of a purely minor or technical change.

2. Summary of Objection

My objection is summarised as follows:

- the proposed amendment to Requirement 35(b) would materially alter the mechanism securing the timely delivery of the Rail Freight Terminal;
- it would significantly change the relationship between warehouse occupation and the provision of the rail infrastructure;
- it would weaken a key control embedded in the original DCO and central to the planning balance on which consent was granted;
- it would increase the prospect of the scheme operating for a prolonged period as a predominantly road-served logistics development;
- the applicant has not demonstrated satisfactorily how the implications of a longer pre-rail phase would be managed in terms of highways, environmental effects and residential amenity;
- the applicant's stated position that the Rail Freight Terminal will still be delivered by 2032 does not appear readily reconcilable with evidence indicating that 20% warehouse occupation may not be achieved until late 2028;
- when considered alongside the proposed amendments to Requirement 25, the revised phasing assumptions, and the amendment to Article 44(3), the application amounts to a broader change to delivery and operational sequencing; and
- if such changes are to be pursued, they should be brought forward through the appropriate procedure for a material amendment, supported by proportionate assessment of the planning consequences.

3. Planning Purpose of the Original Consent

The West Midlands Rail Freight Interchange was promoted, examined and authorised as a Strategic Rail Freight Interchange. That is a matter of more than description; it goes to the fundamental planning rationale for the development as a nationally significant infrastructure project.

The DCO authorises approximately 743,200 square metres of warehousing together with a strategic rail freight terminal and associated infrastructure. The rail component was not ancillary to the planning acceptability of the scheme; rather, it was fundamental to the planning case advanced by the applicant and to the public benefits relied upon in support of the Order, including:

- the strategic role of rail freight;
- the potential for modal shift from road to rail; and
- the transport and environmental benefits associated with rail-served logistics development.

That context is important. The Order did not authorise a standalone road-based logistics park. It authorised a rail freight interchange, with warehousing and rail infrastructure intended to come forward in a structured and related manner.

4. Role and Importance of Requirement 35

That planning balance is reflected directly in Requirement 35.

As originally drafted, Requirement 35 requires completion of the rail terminal works before the earlier of:

- occupation of more than 186,000 square metres of warehousing; or
- the sixth anniversary of the first occupation of more than 47,000 square metres of warehousing.

In planning terms, Requirement 35 serves an important control function. It does two important things:

- It imposes an upper limit on the amount of warehousing that may be occupied before completion of the rail terminal; and
- It imposes a time-based backstop, preventing indefinite deferral of the rail infrastructure while warehouse occupation proceeds.

That structure appears plainly intentional. It allows a defined proportion of the warehousing to come forward ahead of the rail terminal, but only within limits judged acceptable at the time the Order was made.

5. Effect of the Proposed Amendment

The application proposes that Requirement 35(b) be amended so that the relevant trigger becomes the fifth anniversary of the first occupation of more than 150,000 square metres of warehousing, in place of the existing sixth anniversary of the first occupation of more than 47,000 square metres. Consequential amendments are also proposed to Requirement 34.

Whilst the applicant places weight on the fact that the 186,000 square metre threshold in Requirement 35(a) would remain unchanged, that does not diminish the significance of the proposed amendment.

The practical effect would be that:

- the point at which the time-based obligation is engaged would move from 47,000 sq m to 150,000 sq m;
- a materially greater amount of warehousing could therefore be occupied before the time-trigger for completion of the rail terminal takes effect; and
- the original sequencing mechanism would be materially relaxed.

In my view, that is not a minor adjustment or technical clarification. It would alter the operation and effectiveness of one of the principal requirements securing the rail-led character of the consented development.

6. Materiality of the Proposed Change

Whether a change is material is ultimately a matter of planning judgment. However, in this case the planning consequences are sufficiently clear that the proposal cannot reasonably be characterised as non-material.

The amendment would:

- alter the sequencing of the core components of the authorised development;
- reduce the strength of the mechanism securing timely delivery of the rail terminal;
- permit materially greater warehouse occupation before the rail infrastructure is required within a fixed period;
- move the practical operation of the scheme further towards road-served logistics activity in advance of rail delivery;
- affect the way in which the development would function on the ground; and
- give rise to potential transport, environmental and phasing consequences not inherent in the currently authorised position.

These are substantive planning effects. They go beyond the type of change ordinarily understood to fall within the scope of the non-material change procedure.

7. Planning Balance and Policy Context

There is a clear planning objection in principle to the proposed amendment.

The development was authorised because it was promoted and assessed as a Strategic Rail Freight Interchange. The planning case for development of this scale was predicated on substantial logistics warehousing being integrated with strategic rail freight infrastructure. If the effect of the current proposal is to allow materially more road-served warehousing occupation before the rail element is delivered, there is a real risk that the amendment would erode the planning basis on which consent was granted.

This point is reinforced by the fact that the Secretary of State has already determined, through the original DCO, the extent to which warehousing could proceed in advance of completion of the rail terminal. That judgment is expressed through Requirement 35, including both the 186,000 square metre threshold and the earlier 47,000 square metre / 6-year backstop.

In other words, the planning balance was struck when the Order was made. It was not left open for subsequent recalibration through a change described as non-material but which in substance would relax a control central to the acceptability of the scheme.

The objection is not that no warehousing may come forward before the rail terminal. The Order already allows that. The objection is that the proposed amendment would materially weaken the control intended to ensure that the development remains, in substance and practice, a rail freight interchange rather than an extended road-based logistics operation pending later rail delivery.

8. Strategic Character of the Development

The development continues to be presented as a DCO-approved strategic rail freight interchange with associated warehousing. That underlines the continuing importance of the rail element to the identity and justification of the scheme.

In those circumstances, a proposal which would afford materially greater flexibility for warehouse occupation in advance of rail delivery requires careful scrutiny. The planning system

should be slow to accept incremental amendments which, individually or cumulatively, dilute the mechanism intended to secure the rail-led character of the development.

9. Deliverability and Credibility of the Revised Trigger

A further concern relates to the apparent inconsistency between the applicant's asserted delivery programme and the practical implications of the revised trigger.

The applicant has stated that the Rail Freight Terminal will still be delivered by 2032, and that the proposed changes from 6% occupation plus 6 years to 20% occupation plus 5 years would not alter the construction programme. However, information provided by the applicant also indicates that 20% occupation may not be reached until late 2028.

That gives rise to a legitimate question as to how the stated 2032 delivery date is to be achieved if the revised trigger point is not expected to be reached until the end of 2028.

This issue is significant because it suggests that:

- the revised trigger may in practice facilitate further delay to the rail element;
- the development may operate for longer than anticipated in a predominantly road-served form; and
- the practical consequences of slower-than-forecast occupation may not have been adequately addressed.

In my view, this undermines the suggestion that the amendment is of no material consequence.

10. Highways, Environmental Effects and Residential Amenity

The applicant has not, in my opinion, adequately demonstrated how the consequences of a longer pre-rail phase would be managed in terms of highway impact, environmental effects and effects on nearby residents.

10.1 Implications of the Higher Occupation Trigger

It is understood that individual warehouse units equate broadly to around 3% to 5% of total warehouse floorspace. If the revised trigger requires occupation to exceed 20%, this would likely involve occupation of approximately four or five additional units before the time-based rail obligation is engaged.

In the absence of an operational rail terminal, those units would be expected to rely principally on the road network for freight distribution and servicing. That gives rise to a clear prospect of:

- additional HGV movements;
- a longer period of road-based freight activity;
- greater pressure on local and strategic highway capacity; and
- prolonged effects on communities in the vicinity of the site.

Under the original trigger structure, the timing of rail delivery was more closely tied to an earlier level of warehouse occupation, thereby better preserving the intended relationship between warehousing and rail infrastructure.

10.2 Requirement 25 and Highway Works

The proposed amendments to Requirement 25 are also material in this regard. The application seeks to amend infrastructure triggers relating to highway works, but it does not appear to provide sufficient clarity as to the full implications of those changes or the extent to which mitigation may be deferred.

That is of concern because those highway works were intended to mitigate the impacts of development traffic and to protect surrounding communities from the effects of intensified logistics activity, including:

- congestion;
- HGV traffic on local roads;
- adverse effects on network performance; and
- wider amenity consequences for residents.

If highway mitigation is deferred at the same time as a greater amount of warehousing is occupied in advance of rail delivery, the cumulative effect may be materially different from that assessed through the original DCO process.

11. Wider Planning Consequences

The proposed amendment is capable of giving rise to wider planning consequences, including:

- a longer period of road-based freight activity before rail infrastructure becomes operational;
- increased HGV movements on the local and strategic highway network;
- associated implications for congestion and network resilience;
- additional effects in relation to air quality, noise and carbon emissions; and
- a phasing trajectory materially different from that assessed through the original examination.

These concerns are reinforced by the fact that the application also seeks amendments to the illustrative phasing plan and to infrastructure triggers under Requirement 25. Viewed cumulatively, the proposals appear to represent a broader revision to the delivery strategy and operational sequencing of the scheme, rather than a genuinely minor amendment.

12. Article 44(3)

In relation to the proposed amendment to Article 44(3) following *Hillside Parks Ltd v Snowdonia National Park Authority* UKSC 30, I recognise the stated purpose of clarifying the relationship between implementation under the DCO and permissions granted under the Town and Country Planning Act 1990.

That issue may be capable of separate consideration on its own terms. However, it does not lessen the significance of the proposed amendments to Requirement 35, Requirement 34 and Requirement 25, nor should it distract from the substantive planning effects of those changes.

13. Commercial Rationale

I note the applicant's explanation that the original 47,000 square metre trigger is said to be misaligned with delivery costs, funding assumptions and commercial viability.

However, commercial rationale is not determinative of whether a change is material in planning terms. A proposal does not become non-material simply because it is said to improve delivery flexibility, viability or cashflow. On the contrary, where the effect of the amendment is to relax a control imposed to secure a principal public benefit of the scheme, that is a strong indicator that the amendment is material and should be considered through the appropriate statutory route.

14. Conclusion

For the reasons set out above, it is my opinion that the proposed amendments to Requirement 35(b) and Requirement 34, particularly when read alongside the proposed changes to Requirement 25, the phasing revisions and the amendment to Article 44(3), are material in planning terms.

They would materially alter the relationship between warehouse occupation and rail delivery, weaken an important control within the DCO, increase the prospect of an extended road-based phase of operation, and give rise to potential consequences for highways, the environment, phasing and residential amenity.

15. Requested Determination

I therefore respectfully request that:

1. the Secretary of State concludes that the proposed amendments do not fall within the proper scope of the non-material change procedure; and
2. the application is refused.

If the applicant wishes to pursue these changes, they should do so through the appropriate process for a material amendment, supported by a proportionate but robust assessment of the planning, transport, environmental and operational consequences of the revised delivery strategy.

Yours faithfully,

Mark Alcock
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